

Yost, Adam B LCDR OJAG, Code 14

From: foia@erulemaking.net
Sent: Sunday, August 30, 2015 23:20
To: (b) (6) LT OJAG, CODE 14; Winston, Wendy A CIV OJAG, CODE 14
Subject: FOIA Appeal DON-NAVY-2015-008860 Submitted

This message is to notify you of a new appeal submission to the FOIAonline application. Appeal information is as follows:

- * Appeal Tracking Number: DON-NAVY-2015-008860
- * Request Tracking Number: DON-NAVY-2015-007691
- * Requester Name: robert hammond
- * Date Submitted: 08/30/2015
- * Appeal Status: Submitted
- * Description: My FOIA Request and DON's Non-responsive Reply Thereto.

The DON reply is non-responsive providing no records from FOIA tracking systems or tools, but rather providing a completely irrelevant letter dated 7 Jan 15. That letter is clearly not a responsive reply to my FOIA Request DON #15-I, which is the subject of this appeal. Please see below.

The DON letter of 7 Jan 2015 is an unsolicited DON letter related to Navy Bureau of Navy Medicine's BUMED) failure to provide any response for a single FOIA request seeking the WRNMMC FY2012 Annual FOIA Report submission, which is shown in the BUMED and DON FY 2012 Annual FIOA reports as having been submitted through BUMED to DON. BUMED has still not provided a reply to that unrelated FOIA request and it remains open. Moreover, DON letter 5720 Ser DNS-36 - JP/150105010 dated 7 Jan 15, signed by Ms. Patterson, DON FOIA/PA Manager, is misleading and contains factual inaccuracies. I am including my reply to that letter as enclosure (3), both to preserve that replay as a FOIA case record and to include it as background for this appeal and for judicial review, should judicial review of this appeal become necessary. In this way the full record will be available to the public .

Basis for Appeal.

I am appealing that the Agency Did Not

(1) conduct a search within DON where responsive records would likely be located (i.e. any DON system/tool used for tracking FOIA requests (as described in the FOIA request and above) and any DON JAG tracking system/tool)), and issue a finding as to whether there are responsive records therein.

(2) after completing the DON search for responsive records, forward the request "to the DoD Component or other Federal Agency with the responsibility for the records requested (i. e. WRNMMC) for with explicit instructions for further processing as a matter under their cognizance.. See DoD 5400.7-R.C5.2.7.

UNCLASSIFIED

17 September 2015

FOR: Winston, Wendy A CIV OJAG, CODE 14

FROM: Robin Patterson, Head, SECNAV/CNO FOIA/PA Program Office (DNS-36)

SUBJECT: Administrative Appeal DON-NAVY-2015-008860, Ref: DON-NAVY-2015-007691;
Requester Mr. Robert Hammond

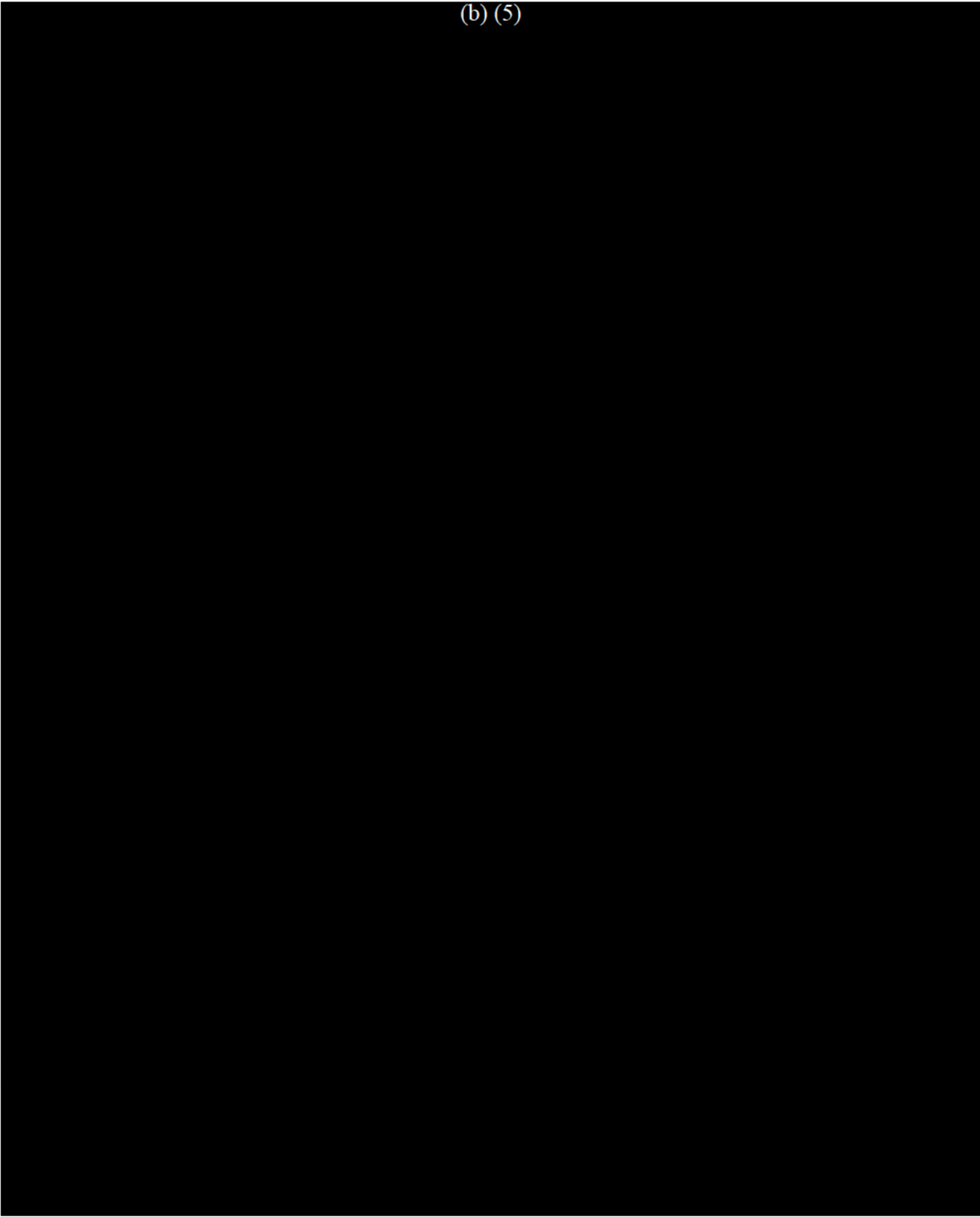
(b) (5)



UNCLASSIFIED

UNCLASSIFIED

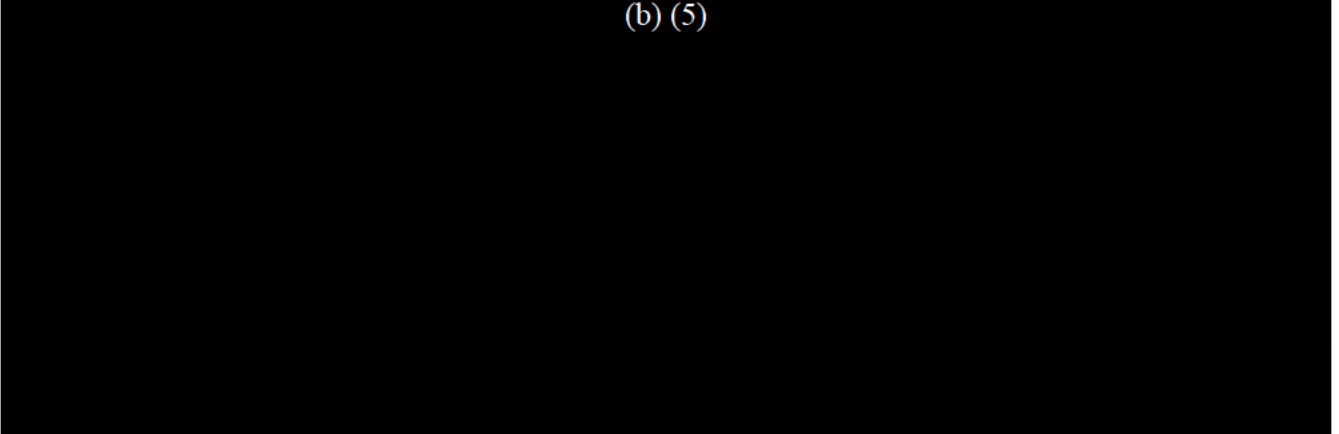
(b) (5)



UNCLASSIFIED

UNCLASSIFIED

(b) (5)



UNCLASSIFIED

Request Details

Status : Closed ; Appealed Due Date : 09/02/2015

13

Submitted Evaluation Assignment Processing Closed

Tracking Number : DON-NAVY-2015-007691	Submitted Date : 07/22/2015
<input type="checkbox"/> Requester : Mr. robert hammond	Last Assigned Date : 07/27/2015
Organization : N/A	Fee Limit : \$50.00
Requester Has Account : Yes	Request Track : Simple
Email Address : (b) (6) @aol.com	Due Date : 09/02/2015
Phone Number : (b) (6)	Assigned To : (b) (6) (Chief of Naval Operations)
Fax Number : N/A	Last Assigned By : Richard Strong (Chief of Naval Operations)
Address : (b) (6)	
City : (b) (6)	
State/Province : (b) (6)	
Zip Code/Postal Code : (b) (6)	

Submission Details Case File Admin Cost Assigned Tasks Comments (3) Review

Direct URL : http://localhost:8080/foia/action/public/view/request/8081863b

Case Details

Type of Case : FOIA	Received Date : 07/22/2015
Fiscal Year : 2015	Clock Initially Started On : 08/05/2015
Total Days Pending : 13	Closed Date : 08/24/2015
Final Disposition : Full grant	

Records Consultations Correspondence Appeals Financing Restricted Materials

Correspondence to Requester

4 items found, displaying all items.

Subject	From	To	Date	Detail	Remove
Final Disposition, Request DON-NAVY-2015-007691	(b) (6)	(UNSENT)	08/25/2015		

DON-NAVY-2015-007691 has been processed with the following final disposition: Full grant.

FOIA Fee Waiver Disposition Reached for DON-NAVY-2015-007691	System	robert hammond	08/24/2015	
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Subject	From	To	Date	Detail	Remove
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Your request for Fee Waiver for the FOIA request DON-NAVY-2015-007691 has been determined to be not applicable as the request is not billable. Additional details for this request are as follows:

- Request Created on: 07/22/2015
- Request Long Description: I am seeking records my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests. It is records from DON tracking systems that are potentially used for compiling the Annual FOIA Report submission that I am seeking. The current system is <https://foiaonline.regulations.gov/>, but the records that I am seeking may have been contained in a predecessor system, if they were not brought forward. Note that records released under the FOIA (DON-NAVY-2015-002302) demonstrate that WRNMMC FOIA requests were included in the DON Annual FOIA Report submission. Moreover, many requests were appealed to DON JAG and would have had to have been included in the DON JAG FY2013 Annual FOIA Report submission. Enclosure (1) is a listing of individual FOIA requests submitted to Walter Reed National Military Medical Center (WRNMMC). It is my understanding that DON/DON JAG maintains one or more automated system(s) database(s) for tracking FOIA requests and FOIA appeals and that each FOIA request that I submitted to WRNMMC and each FOIA request that I appealed should have been recorded in DON automated systems. It is my understanding that such automated tracking systems/database(s) are used in compiling the Annual FOIA Report submission and that subordinate activity requests, such as those that I submitted to WRNMMC would have been entered into such DON-wide tracking systems. The records that I am seeking should be readily available and easily located by FOIA personnel. This is a simple request.

DON-NAVY-2015-007691

(b) (6)

robert hammond

08/24/2015

08/24/2015 03:15 PM

FOIA Request: DON-NAVY-2015-007691

Please see attached correspondence

☞ [DON-NAVY-2015-007691-RESP TO REQUESTER.pdf](#), PDF, 0.21 MB (remove)

FOIA Request DON-NAVY-2015-007691 Submitted

System

robert hammond

07/22/2015

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request information is as follows:

- Tracking Number: DON-NAVY-2015-007691
- Requester Name: robert hammond
- Date Submitted: 07/22/2015
- Request Status: Submitted
- Description: I am seeking records my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests. It is records from DON tracking systems that are potentially used for compiling the Annual FOIA Report submission that I am seeking. The current system is <https://foiaonline.regulations.gov/>, but the records that I am seeking may have been contained in a predecessor system, if they were not brought forward. Note that records released under the FOIA (DON-NAVY-2015-002302) demonstrate that WRNMMC FOIA requests were included in the DON Annual FOIA Report submission. Moreover, many requests were appealed to DON JAG and would have had to have been included in the DON JAG FY2013 Annual FOIA Report submission. Enclosure (1) is a listing of individual FOIA requests submitted to Walter Reed National Military Medical Center (WRNMMC). It is my understanding that DON/DON JAG maintains one or more automated system(s) database(s) for tracking FOIA requests and FOIA appeals and that each FOIA request that I submitted to WRNMMC and each FOIA request that I appealed should have been recorded in DON automated systems. It is my understanding that such automated tracking systems/database(s) are used in compiling the Annual FOIA Report submission and that subordinate activity requests, such as those that I submitted to WRNMMC would have been entered into such DON-wide tracking systems. The records that I am seeking should be readily available and easily located by FOIA personnel. This is a simple request.

4 items found, displaying all items.

1

Other Correspondence

3 items found, displaying all items.




1

Attached File

Type

Size (MB)

Remove

Attached File	Type	Size (MB)	Remove
DON-NAVY-2015-007691-ADMIN LOG.pdf	PDF	0.39	
DON-NAVY-2015-007691-EMAILS REQ HISTORY.pdf	PDF	2.94	
DON-NAVY-2015-007691-EMAIL BTWN (b) (6) DNS-36 & D. GARCIA BUMED.pdf	PDF	0.01	

3 items found, displaying all items.

1

Shaw, Phyllis CIV OPNAV, DNS-3

From: Garcia, Della W CIV USN BUMED FCH VA (US) <(b) (6)@mail.mil>
Sent: Thursday, July 30, 2015 9:51
To: (b) (6) CIV OPNAV, DNS-3
Cc: Patterson, Robin L CIV OPNAV, DNS-36
Subject: RE: DON-NAVY-2015-007691

Good morning.

Have you talked with Robin about this one? This is a requester that she helped me out with in the past and you guys wrote a response to.

Is he really asking for a copy of his own requests?

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste 5124
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6)@mail.mil

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-----Original Message-----

From: (b) (6) CIV OPNAV, DNS-3 [mailto:(b) (6)@navy.mil]
Sent: Thursday, July 30, 2015 8:34 AM
To: Garcia, Della W CIV USN BUMED FCH VA (US)
Cc: (b) (6) CIV USN CNO (US)
Subject: DON-NAVY-2015-007691
Importance: High

Della:

Please review the attached FOIA request.

(b) (5)

Do you agree?

v/r,

(b) (6)

(b) (6) CIV OPNAV, DNS-3

From: Patterson, Robin L CIV OPNAV, DNS-36
Sent: Thursday, July 30, 2015 14:32
To: **(b) (6)** CIV OPNAV, DNS-3
Subject: FW: FOIA Request – Critical Low Value of Sodium Stored in WRNMMC Computers
Attachments: clip_image002.png; REPLYT~4.PDF
Signed By: **(b) (6)** @navy.mil

-----Original Message-----

From: **(b) (6)** @aol.com [mailto:**(b) (6)** @aol.com]
Sent: Saturday, April 18, 2015 8:31 AM
To: **(b) (6)** @mail.mil; **(b) (6)** @mail.mil
Cc: OSD.FOIAPolicy@mail.mil; Garcia, Della ; Muck, Steve CIV SECNAV, DON CIO; **(b) (6)** ;
BUMED.FOIA@med.navy.mil; **(b) (6)** @nara.gov; **(b) (6)** @mail.mil; **(b) (6)** @nara.gov; Julka,
Christopher A CIV DON, CIO; ogis@nara.gov; **(b) (6)** @mail.mil; **(b) (6)** @tma.osd.mil;
(b) (6) @mail.mil; **(b) (6)** @mail.mil; DON FOIA Public Liaison;
FOIARequests@tma.osd.mil; **(b) (6)** @mail.mil; Patterson, Robin L CIV OPNAV, DNS-36; DONFOIA-PA;
(b) (6) @mail.mil; Lattin, Grant E CIV OJAG, CODE 14; **(b) (6)** @mail.mil;
(b) (6) @mail.mil; **(b) (6)** @mail.mil; osd.ncr.ocam.mxb.dcplo-correspondence@mail.mil;
PrivacyMail@mail.mil; **(b) (6)** @aol.com
Subject: Re: FOIA Request – Critical Low Value of Sodium Stored in WRNMMC Computers

Robert Hammond

(b) (6)

(b) (6) @aol.com

April 18, 2015

Mr. Joe E. Davidge
Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office Walter Reed National Military Medical Center
(WRNMMC)
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430 Bethesda, Maryland 20889-5600

Ms. Judy Bizzell
FOIA Officer, WRNMMC
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430 Bethesda, Maryland 20889-5600

Subject: FOIA Request of February 26, 2013 – Critical Low Value of Sodium Stored in WRNMMC Computers

Reference: (a) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act

Enclosure: (1) (b) (6) @mail.mil email sent 3.13.2015 at 6.03.35 P.M. Eastern

Daylight Time with attachments

(2) (b) (6) @mail.mil email sent: 3/12/2015 1:49:13 P.M. Eastern

Daylight Time

(3) Hammond FOIA Appeal of 20 July 2013

(4) Hammond ltr of March 21, 2015, subject as above

Dear Mr. Davidge and Ms. Bizzell,

I am writing to you as the Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office and as the FOIA Officer to respectfully express concern with the WRNMMC processing of my FOIA request of February 26, 2013 for the critical low value of sodium stored in WRNMMC computers in December 2011. Enclosures (1), (2) and (3) apply. In documenting these concerns below, it is my hope this request will be completed without the need for appeal and that improvements in FOIA and Privacy Act processing will be implemented at all levels going forward. I am particularly concerned about WRNMMC's frequent misuse of the (b)(6) [privacy] exemption. Multiple appeals are currently pending adjudication.

First, I am concerned that my February 26, 2013 FOIA request be reported to DOD leadership and the Attorney General of the United States with the effective date of my original FOIA request date. The record released at Enclosure (1) on March 13, 2015 (under your FOIA case tracking number 15-15) that identifies the critical low value of sodium stored in WRNMMC laboratory computer systems in December 2011 is not a response to any FY 2015 FOIA request. References in your emails to other FOIA requests are misleading. This is in fact a response to my FOIA request of February 26, 2013 sent to your office by certified mail on that date and then sent again on March 29, 2013 when I received no acknowledgement or reply to my February 26, 2013 request. Please also see at Enclosure (3) my appeal of my February 26, 2013 FOIA request seeking these records.

Second, I am concerned that WRNMMC withheld the record at Enclosure (1) for two years, denying its existence up until the day before it was released. That is not to say that the FOIA Officer is responsible. I recognize that any FOIA Officer may only release documents that are provided in response to (appropriately constructed) searches by the FOIA office and as approved for release by management following legal review.

Third, I am concerned by WRNMMC's assertion maintained until 03/12/2015 that specific pages of my personal medical records (that do not even contain the critical value of sodium) constituted a reasonable search or that I sought such records to document the critical low value of sodium in WRNMMC computer systems. The critical low value of sodium would not be identified in the personal medical records of any individual. Moreover, WRNMMC's assertions are contradicted by all FOIA case records, including the request itself, my appeal of the FOIA request at Enclosure (3), and an extremely large body of emails, formal follow-ups, and other correspondence. My request for the critical low value of sodium clearly states:

"I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. [Intervening text omitted] It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source."

Moreover, in 2013 I provided a sample printout from another Navy Military Treatment Facility using same computer systems as WRNMMC and I consistently directed WRNMMC to laboratory computer records, system change logs and files. During appeal of this request in 2013, the DON JAG action officer stated that WRNMMC advised him that laboratory computer system records did not exist and could not be produced. The DON JAG final determination letter repeats that assertion, stating that, "there is no system generated printout that satisfies this FOIA request." And, the WRNMMC email of March 12, 2015 (two years later) states that, "This office has no further documents responsive to this request."

Forth, the record released on March 13, 2015 showing the critical low value of sodium stored in the WRNMMC computer systems between December 23, 2011 and December 29, 2011 was printed on 16AUG2014. It is not clear if or why the record was not located prior to that date, why WRNMMC was officially maintaining that no such record existed through March 12, 2013, and why WRNMMC withheld the record until March 13, 2015.

Lastly, I am very concerned about the frequent misuse of the (b)(6) privacy exemption to withhold or redact information that is clearly not exempt and about redactions made without any statutory basis. The record released by your office contains redactions that are not in line with the FOIA, the Privacy Act or governing laws, regulations and policies. It is notable that after more than two years of maintaining that no record exists, WRNMMC released a redacted record. I am respectfully challenging your redaction that states, "Last 4 Lines of redaction due to (b)(6) exemption under the FOIA." My understanding is that such redaction would only apply to Privacy Act protected information, such as name in conjunction with SSN, but not to name alone. Records identifying personnel who took official actions is not exempt. And, I am aware of no exemption that would apply to the redaction that you labeled, "NOT RESPONSIVE TO REQUEST." This redacted information is an integral part of the record, providing context that is required to be released under the FOIA.

I offer for your consideration that it may be appropriate to consult with Department of Navy and Defense Health Agency regarding guidance for amending/correcting past FOIA/Privacy Act reports.

I am hoping that this request can be resolved without appeal and that other WRNMMC FOIA/Privacy Act requests can be addressed fully at the WRNMMC or DHA level.

Thank you in advance for attention to this matter and for your cooperation.

With my respect,

Robert Hammond

Copy to:

Linda S. Thomas, JD, CIPP/G, PMP, CISSP
Chief, DHA Privacy and Civil Liberties Office

Office of the Assistant Secretary of Defense Health Affairs

7700 Arlington Boulevard, Suite 5101

Falls Church, VA 22042-5101

Chief, Defense Freedom of Information Policy Office

Office of the Secretary of Defense, Administration

1950 Defense Pentagon

Washington DC 20301 - 1950

OSD.FOIAPolicy@mail.mil,

(b) (6) @MED.NAVY.MIL

(b) (6) @navy.mil,

(b) (6) @MED.NAVY.MIL,

BUMED.FOIA@med.navy.mil,

(b) (6) @nara.gov,

(b) (6) @mail.mil,

(b) (6) @nara.gov,

christopher.a.julka@navy.mil,

ogis@nara.gov <mailto:ogis@nara.gov> ,

(b) (6) @mail.mil <mailto:(b) (6) @mail.mil> ,

(b) (6) @tma.osd.mil <mailto:(b) (6) @tma.osd.mil> ,

(b) (6) @mail.mil <mailto:(b) (6) @mail.mil>

(b) (6) @mail.mil <mailto:(b) (6) @mail.mil>

DONFOIAPublicLiaison@navy.mil,

FOIARRequests@tma.osd.mil,

(b) (6) @mail.mil,

(b) (6) @navy.mil,

donfoia-pa@navy.mil,

(b) (6) @mail.mil,

(b) (6) @navy <mailto:(b) (6) @navy> .mil,

(b) (6) @mail.mil <mailto:(b) (6) @mail.mil> ,

(b) (6) @mail.mil <mailto:(b) (6) @mail.mil> ,

(b) (6) @mail.mil <mailto:(b) (6) @mail.mil>

osd.ncr.ocam.mxb.dcplo-correspondence@mail.mil <mailto:osd.ncr.ocam.mxb.dcplo-correspondence@mail.mil> ,
PrivacyMail@mail.mil <mailto:PrivacyMail@mail.mil>

In a message dated 3/22/2015 5:33:25 A.M. Eastern Daylight Time, (b) (6) @aol.com writes:

Robert Hammond

(b) (6)

(b) (6)

(b) (6) @aol.com

March 21, 2015

Joe Davidge
Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office
Walter Reed National Military Medical Center (WRNMMC)
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Subject: FOIA Request – Critical Low Value of Sodium Stored in WRNMMC Computers

Reference: (a) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act

Enclosure: (1) (b) (6) @mail.mil email sent 3.13.2015 at 6.03.35 P.M. Eastern Daylight Time with attachments

(2) (b) (6) @mail.mil <mailto:(2)%20(b) (6) @mail.mil> email sent: 3/12/2015 1:49:13 P.M. Eastern Daylight Time

(3) Hammond FOIA Appeal of 20 July 2013

Dear Mr. Davidge,

I am writing to you as the Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office to express concern with the WRNMMC processing of my FOIA request of February 26, 2013 for the critical low value of sodium stored in WRNMMC computers in December 2011 and to request specific actions. Enclosures (1), (2) and (3) apply. In documenting these concerns, it is my hope that specific actions related to this request will be completed and that improvements in FOIA and PA processing will be implemented at all levels going forward.

First, I am concerned that this FOIA request be accurately reported to DOD leadership and the Attorney General of the United States with the effective date of my original FOIA request of February 26, 2013. The record released in Attachment (a) of Enclosure (1) identifying the critical low value of sodium stored in WRNMMC laboratory computer systems in December 2011 is not a response to any FY 2015 FOIA request. This response is actually to my FOIA request of February 26, 2013 sent to your office by certified mail on that date and then again on March 26, 2013 when I received no acknowledgement or reply to my February 26, 2013 request. Please also see Attachment C of my appeal of that FOIA request at Enclosure (3).

ACTIONS REQUESTED. Please:

- enter this request for the critical low value of sodium stored in WRNMMC computers into the DHA central FOIA case tracking database with an effective date of February 26, 2013, when it was submitted;
- preserve all records responsive to or potentially responsive to this request that existed at the time of this request until final action has been taken and the statutory time for judicial review has passed or in accordance with a NARA approved record schedule, if longer;
- preserve all correspondence, including this letter, emails and other communications regarding this request in the FOIA case file and in the DHA FOIA case tracking database;
- preserve all records of searches that you have conducted and those conducted in the future;
- recover and preserve any records that have been archived;
- provide a final decision letter for this request that includes the responsive records without redaction.

Second, I am concerned that WRNMMC - with intent - withheld the record at Enclosure (1) and denied its existence or ability to produce the record for two years, up until the day before it was released. All case records and correspondence affirm this. That is not to say that the FOIA Officer is responsible. I recognize that any FOIA Officer may only release documents that are provided in response to appropriately constructed searches by the FOIA office and as approved for release by management following legal review.

The assertion maintained by WRNMMC until 03/12/2015 1:49:13 P.M. Eastern Daylight Time that specific pages of my personal medical records related to a separate FOIA request - that do not even contain the critical value of sodium - constituted a reasonable search or that I sought those records to document the critical low value of sodium in WRNMMC computer systems is not credible.

The critical low value of sodium would not be identified in the personal medical records of any individual. Moreover, the WRNMMC assertions are contradicted by all FOIA case records, including the request itself, my FOIA appeal of that request at Enclosure (3), an extremely large body of emails, formal follow-ups, and multiple requests related to that matter (which must all be preserved in FOIA case files). My request for the critical low value of sodium states:

I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. [Intervening text omitted] It is the critically low value for sodium NA+ that I am seeking that is stored in the computer - not from any other source.

It is concerning that in the email of March 12, 2013 WRNMMC omitted the full text of my request, including the last sentence highlighted above. Moreover, in 2013 I provided a sample printout from another Navy Military Treatment Facility using same computer system as WRNMMC and I consistently directed WRNMMC to laboratory computer records, system change logs and files.

During appeal of this request in 2013, the DON JAG action officer stated that WRNMMC was maintaining that laboratory computer system records did not exist and could not be produced. The WRNMMC email of March 12, 2015 suggests the same - reflecting no intent to acknowledge the existence of or to release the record - stating that: "This office has no further documents responsive to this request."

Third, the record released on March 3, 2015 showing the critical low value of sodium stored in the WRNMMC computer systems between December 23, 2011 and December 29, 2011 has a print date of 16AUG2014. It is not clear why WRNMMC was not able to locate this record prior to that time, why it was not provided to or released by the FOIA Office until March 13, 2015 or why on March 12, 2013 WRNMMC was officially maintaining that no such record existed.

Fourth (and significantly) I am concerned about what I view as the continued misuse of the (b)(6) privacy exemption to withhold or redact information clearly not exempted and about redactions without any statutory basis. There are multiple instances of this, which may be addressed in the future.

The record released contains redactions that are not in line with the FOIA, the Privacy Act or governing laws, regulations and directives. The fact that after more than two years, WRNMMC released a redacted record is concerning, suggesting that the redacted information may be related to the delayed release itself. I am aware of no exemption that would apply to the redaction labeled "NOT RESONSIVE TO REQUEST." This information is an integral part of the record being released, providing context that is required to be released under the FOIA.

Next, I am challenging the redaction: "Last 4 Lines of redaction due to (b)(6) exemption under the FOIA." My understanding is that such redaction would only apply to Privacy Act protected information, such as name in conjunction with SSN, but not to name alone, for example. Records identifying personnel who took official actions is not exempt. As a matter of principal and compliance, I am challenging that any of the redacted information is exempt and asking that all information not specifically exempt by the PA be released.

In closing, I offer a final thought for your consideration. It may be appropriate to consult with Department of Navy and Defense Health Agency regarding guidance for amending/correcting past FOIA/PA reports.

I am interested in my FOIA/PA requests being properly addressed, for all records to be provided and for the FOIA/PA processes and appeals to work the way that they are supposed to. I am hoping that this request can be resolved without appeal and that other WRNMMC FOIA/PA matters can be resolved at the WRNMMC or DHA level.

I will greatly appreciate your prompt attention to this letter and timely reply.

Thank you in advance.

With my respect,

Robert Hammond

Copy to:

Judy Bizzell
FOIA Officer, WRNMMC
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Linda S. Thomas, JD, CIPP/G, PMP, CISSP
Chief, DHA Privacy and Civil Liberties Office

Office of the Assistant Secretary of Defense Health Affairs

7700 Arlington Boulevard, Suite 5101

Falls Church, VA 22042-5101

Robert Hammond

(b) (6)

(b) (6) @aol.com

April 18, 2015

Mr. Joe E. Davidge
Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office
Walter Reed National Military Medical Center (WRNMMC)
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Ms. Judy Bizzell
FOIA Officer, WRNMMC
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Subject: FOIA Request of February 26, 2013 – Critical Low Value of Sodium Stored in
WRNMMC Computers

Reference: (a) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act

- Enclosure: (1) (b) (6) @mail.mil email sent 3.13.2015 at 6.03.35 P.M. Eastern
Daylight Time with attachments
(2) (b) (6) @mail.mil email sent: 3/12/2015 1:49:13 P.M. Eastern
Daylight Time
(3) Hammond FOIA Appeal of 20 July 2013
(4) Hammond ltr of March 21, 2015, subject as above

Dear Mr. Davidge and Ms. Bizzell,

I am writing to you as the Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office and as the FOIA Officer to respectfully express concern with the WRNMMC processing of my FOIA request of February 26, 2013 for the critical low value of sodium stored in WRNMMC computers in December 2011. Enclosures (1), (2) and (3) apply. In documenting these concerns below, it is my hope this request will be completed without the need for appeal and that improvements in FOIA and Privacy Act processing will be implemented at all levels going forward. I am particularly concerned about WRNMMC's frequent misuse of the (b)(6) [privacy] exemption. Multiple appeals are currently pending adjudication.

First, I am concerned that my February 26, 2013 FOIA request be reported to DOD leadership and the Attorney General of the United States with the effective date of my original FOIA request date. The record released at Enclosure (1) on March 13, 2015 (under your FOIA case tracking number 15-15) that identifies the critical low value of sodium stored in WRNMMC laboratory computer systems in December 2011 is not a response to any FY 2015 FOIA request. References in your emails to other FOIA requests are misleading. This is in fact a response to my FOIA request of February 26, 2013 sent to your office by certified mail on that date and then

sent again on March 29, 2013 when I received no acknowledgement or reply to my February 26, 2013 request. Please also see at Enclosure (3) my appeal of my February 26, 2013 FOIA request seeking these records.

Second, I am concerned that WRNMMC withheld the record at Enclosure (1) for two years, denying its existence up until the day before it was released. That is not to say that the FOIA Officer is responsible. I recognize that any FOIA Officer may only release documents that are provided in response to (appropriately constructed) searches by the FOIA office and as approved for release by management following legal review.

Third, I am concerned by WRNMMC's assertion maintained until 03/12/2015 that specific pages of my personal medical records (that do not even contain the critical value of sodium) constituted a reasonable search or that I sought such records to document the critical low value of sodium in WRNMMC computer systems. The critical low value of sodium would not be identified in the personal medical records of any individual. Moreover, WRNMMC's assertions are contradicted by all FOIA case records, including the request itself, my appeal of the FOIA request at Enclosure (3), and an extremely large body of emails, formal follow-ups, and other correspondence. My request for the critical low value of sodium clearly states:

"I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. *[Intervening text omitted]* It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source."

Moreover, in 2013 I provided a sample printout from another Navy Military Treatment Facility using same computer systems as WRNMMC and I consistently directed WRNMMC to laboratory computer records, system change logs and files. During appeal of this request in 2013, the DON JAG action officer stated that WRNMMC advised him that laboratory computer system records did not exist and could not be produced. The DON JAG final determination letter repeats that assertion, stating that, "there is no system generated printout that satisfies this FOIA request." And, the WRNMMC email of March 12, 2015 (two years later) states that, "This office has no further documents responsive to this request."

Forth, the record released on March 13, 2015 showing the critical low value of sodium stored in the WRNMMC computer systems between December 23, 2011 and December 29, 2011 was printed on 16AUG2014. It is not clear if or why the record was not located prior to that date, why WRNMMC was officially maintaining that no such record existed through March 12, 2013, and why WRNMMC withheld the record until March 13, 2015.

Lastly, I am very concerned about the frequent misuse of the (b)(6) privacy exemption to withhold or redact information that is clearly not exempt and about redactions made without any statutory basis. The record released by your office contains redactions that are not in line with the FOIA, the Privacy Act or governing laws, regulations and policies. It is notable that after more than two years of maintaining that no record exists, WRNMMC released a redacted record. I am respectfully challenging your redaction that states, "Last 4 Lines of redaction due to (b)(6)

exemption under the FOIA." My understanding is that such redaction would only apply to Privacy Act protected information, such as name in conjunction with SSN, but not to name alone. Records identifying personnel who took official actions is not exempt. And, I am aware of no exemption that would apply to the redaction that you labeled, "NOT RESONSIVE TO REQUEST." This redacted information is an integral part of the record, providing context that is required to be released under the FOIA.

I offer for your consideration that it may be appropriate to consult with Department of Navy and Defense Health Agency regarding guidance for amending/correcting past FOIA/Privacy Act reports.

I am hoping that this request can be resolved without appeal and that other WRNMMC FOIA/Privacy Act requests can be addressed fully at the WRNMMC or DHA level.

Thank you in advance for attention to this matter and for your cooperation.

With my respect,

(b) (6)

Robert Hammond

Copy to:

Linda S. Thomas, JD, CIPP/G, PMP, CISSP
Chief, DHA Privacy and Civil Liberties Office
Office of the Assistant Secretary of Defense Health Affairs
7700 Arlington Boulevard, Suite 5101
Falls Church, VA 22042-5101

Chief, Defense Freedom of Information Policy Office
Office of the Secretary of Defense, Administration
1950 Defense Pentagon
Washington DC 20301 - 1950

OSD.FOIAPolicy@mail.mil,

(b) (6) @MED.NAVY.MIL

(b) (6) @navy.mil,

(b) (6) @MED.NAVY.MIL,

BUMED.FOIA@med.navy.mil,

(b) (6) @nara.gov,

(b) (6) @mail.mil,

(b) (6) @nara.gov,

christopher.a.julka@navy.mil,

ogis@nara.gov,

(b) (6) @mail.mil,

(b) (6) @tma.osd.mil,

(b) (6) @mail.mil

(b) (6) @mail.mil

DONFOIAPublicLiaison@navy.mil,

FOIARequests@tma.osd.mil,

(b) (6) @mail.mil,

(b) (6) @navy.mil,

donfoia-na@navy.mil,

(b) (6) @mail.mil,

(b) (6) @navy.mil,

(b) (6) @mail.mil,

(b) (6) @mail.mil,

(b) (6) @mail.mil

osd.ncr.ocam.mxb.deplo-

correspondence@mail.mil,

PrivacyMail@mail.mil

- Original request for the value stored in computer was submitted on February 26, 2013
- The request clearly states that computer records are sought, no other source
- On March 12, 2015 WRNMMC stated that no record for the value in computers exists
- Then, a redacted record was released on March 13, 2015 with this e-mail
- The record released shows a print date of 16 AUG 2014
- The WRNMMC redactions are not in line with the FOIA or the Privacy Act

From: (b) (6) @mail.mil
To: (b) (6) @aol.com

Sent: 3/13/2015 6:03:35 P.M. Eastern Daylight Time

Subj: FW: Subject: FOIA Request – Critical Communication SOP NO ADMIN 1.17

Dear Mr. Hammond:

This responds to your Freedom of Information Act Request (below). Your request has been assigned case #15-15. Please refer to this number when inquiring about this case.

For your request you state: "I requested; "... the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed." [WRNMMC omitted here: "... It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source."]

With no malice or ill intent, we forwarded you your own information regarding the subject as we believed this was your request. We sent your request back to the Lab and are now forwarding to you the information (attached) and hope this will satisfy your need. There are 2 pages: Page 1 has information redacted that is not responsive to your request and additional information redacted under FOIA using exemption (b)(6). The information redacted using the (b)(6) exemption is personal/private information of individuals that would be an unwarranted invasion of personal privacy if release. FOIA allows for this redaction. Page 2 has no redactions and is released in full.

If you are dissatisfied with the above determination for any reason, you may file an appeal. Such an appeal should be addressed to:

Defense Health Agency - Office of the General Counsel
National Capitol Region Medical Directorate
Attention: Mr. (b) (6)
8901 Wisconsin Ave (Building 27)
Bethesda, MD 20889

The appeal must be postmarked within 60 calendar days from the date of this letter, and you should attach this letter with a statement regarding the basis of your appeal. I recommend you annotate both the letter of appeal and envelope with the words "Freedom of Information Act Appeal."

Fees associated with the processing of your request, by this Command, have been waived. If you have any questions or require further assistance, you may contact me at (b) (6) or by email at (b) (6) @clv.mail.mil.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889

—Original Message—

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]

Sent: Sunday, March 01, 2015 6:56 AM

To: Davidge, JOSEPH E (Joe) JR CIV DHA NCR MEDICAL DIR (US); (b) (6) @health.mil;
Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)

Cc: Henemyreharris, Claudia L LTC USARMY DHA NCR MEDICAL DIR (US); Thomas, Linda S CIV DHA CMD GRP (US)

LAB WORK ELEMENT [REDACTED] [Print Date]
LRWE DEFAULT LAB METHOD: SODIUM (WRB-COBAS) 16AUG2014
LAB SECTION: CLINICAL CHEMISTRY

[WRNMMC redactions are improper]

NOT RESPONSIVE TO THE REQUEST

[REDACTED]

[REDACTED]

(FTA215:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (NNMC) 090101
on 11/23/05 [REDACTED] (_NTY7855:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (NNMC-BAYER) 103105
on 01/31/11 [REDACTED] (FTA4097:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (NNMC-CLINK) 013111
on 09/06/12 [REDACTED] (FTA1096:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (WRB-COBAS)
24JUNE2012
on 08/16/14 [REDACTED] (FTA215:)

Last 4 lines
of
redaction
due to
(b)(6)
exemption
under the
FOIA

CPT CODE: 84295

-----Break

Lab Method: SODIUM (NNMG-CLINK) 013111

LRMETHOD --

CONT

Site/Specimen: SERUM

Sex: MALE/NO SEX

Select Age Group: (multiple)

	Upper Limit	Ref. Low	Ref. High	Panic Low	Panic
High					
ALL	999	136	145	120	160

From: (b) (6) @mail.mil
To: (b) (6) @aol.com

CC: (b) (6) @mail.mil (b) (6) @mail.mil (b) (6) @health.mil

Sent: 3/12/2015 1:49:13 P.M. Eastern Daylight Time

Subj: RE: Subject: FOIA Request – Critical Communication SOP NO ADMIN 1.17

- March 1, 2015 e-mails referenced below relate to SOPs vice a computer file
- FOIA request for the value in computers was submitted on February 26, 2013
- This March 12, 2015 e-mail states that no records exist
- Then the [redacted] record was released the next day; print date 16 AUG 2014

Dear Mr. Hammond - This responds to your two emails sent on Sunday, March 1, 2014.

In your first request, you requested:

"... the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed." [WRNMMC omitted here... It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source.]

You are reminded that this office does not own responsive documents to FOIA requests. All documents received from other departments in response to FOIA requests are reviewed and appropriate information is forwarded to the requester. The final response letter dated June 11, 2013, was sent with no intent to "disingenuously referred to your [my] own laboratory values." The responsive documents we received were from your records on the dates you specified. Therefore, this office had no reason to believe that the department that responded, would send information "they knew was non-responsive to your [my] request for the critical low value of sodium." Further, referring you "to pages 301 through 310 in response to this portion of your request" shows clearly that the organization sent you many more pages and was trying to answer your request without delay. Another organization responding differently does not mean in any way that we were trying to withhold records. This office has no further documents responsive to this request.

Your Second request for "WRNMMC SOP Regarding the Critical Value for Sodium that Preceded WRNMMC SOP NO. ADMIN 1.17 Date Prepared: October 2011; subject Critical Communication" has been asked and answered within your appeal.

FOIA provides records and existing documents. FOIA is not a means to request new qualitative responses. Whether you agree with previous records provided, believe results were misinterpreted, or wish the records be changed to reflect a different result, are all matters that exceed the purpose of FOIA and the authority of FOIA personnel. We respond to requests for information. We do not alter or manipulate that information."

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]

Sent: Sunday, March 01, 2015 6:56 AM

To: Davidge, JOSEPH E (Joe) JR CIV DHA NCR MEDICAL DIR (US); (b) (6) @health.mil;
Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)

Cc: Henemyreharris, Claudia L LTC USARMY DHA NCR MEDICAL DIR (US); Thomas, Linda S CIV DHA CMD GRP (US)

Subject: Fwd: Subject: FOIA Request – Critical Communication SOP NO ADMIN 1.17

Robert Hammond

(b) (6)

(b) (6)

@aol.com

July 20, 2013

Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Ave., SE, Suite 3000
Washington Navy Yard, DC 20374-5066

Subject: FOIA/Privacy Act Request Appeal

References: Freedom of Information Act Privacy Act, CFR 164.526

Dear Sir:

This letter is to appeal the Walter Reed National Military Medical Center's (WRNMMC) response of June 11, 2013 to my requests submitted under both the Freedom of Information Act, U.S.C. subsection 522 and the Privacy Act, 5 U.S.C subsection 522a. WRNMMC must provide a reply that meets the requirements of both laws. For convenience, I have included the WRNMMC reply as Attachment A and have numbered the paragraphs for reference purposes. That reply indicates that some information was previously provided to me, so I also included WRNMMC's reply of May 14, 2013 as Attachment B. The reply at Attachment B was non-responsive for much of the same information. My personal medical information has been removed from Attachments A, B and subsequent attachments. I have also attached the relevant FOIA requests (with my medical information removed) for reference.

The basis for my appeal is that WRNMMC has not provided the information requested. Since a single FOIA request may deal with more than one item; since more than one was request was submitted for the same information due to non-response, and since the WRNMMC reply does not distinguish individual requests, I have broken the requests into categories.

Critical low sodium value. Please see my letter of February 26, 2013 (Attachment C), which was followed by a request dated March 29, 2013 (Attachment D), because my initial request was not acknowledged). I requested the value for critically low sodium (NA+) in mEq/L stored in the computer that produces the laboratory printouts. There were follow-on emails with the FOIA Officer who clearly understood the request. Instead, WRNMMC responded in paragraph #8 by referencing my medical records, which do not show that value. I am seeking the single numeric value for serum sodium that would cause a result to be flagged as at or below the critically low level. WRNMMC laboratory reports show a "normal" reference range of 136 - 145. A value below that range would be flagged as "L" or low. If it were critically low, it would be flagged by an asterisk. It is the value that would trigger the asterisk for critically low that I am seeking, which is not shown in the WRNMMC reply referenced in paragraph #8. Attachment E shows an example of the non-responsive information provided by WRNMMC (with my personal lab values removed), along with a responsive reply provided by another hospital in eight business days. This demonstrates that the information I am requesting is readily available. WRNMMC may respond with a printout similar to that of the other hospital or may simply provide the value.

DD Forms 2870. Please see Attachments F and G dated February 26, 2013 and March 29, 2013, which is a resubmission, because initial FOIA request was not acknowledged. They request copies of

Attachment C

Robert Hammond

(b) (6)

Original FOIA Request

February 26, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,
Walter Reed National Medical Center
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: Privacy Act Request/FOIA Request Regarding Critical Sodium Value

Dear Ms. Bizzell and/or Privacy Officer,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522 and the Privacy Act, 5 U.S.C. subsection 522a. Please process this request under the Act that results in the lowest cost. If there are fees for searching or copying the records less than \$100 (which I agree to pay), please advise me before proceeding.

I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. By way of explanation, when laboratory values do not fall within the normal range (high or low) they are noted as such on laboratory reports/printouts for that patient along with the range of normal values. When an abnormal value is deemed critical, it is noted on the laboratory report/printout and may typically be identified with an asterisk. It is the critically low value for sodium Na^+ that I am seeking that is stored in the computer – not from any other source. For example the normal range for Na^+ might be 136 – 144 mEq/L with a critically low value less than 136 mEq/L.

Please provide your written reply within the prescribed timeframes.

Thank you in advance.

With my deepest respect,

Robert Hammond
Commander, Supply Corps
United States Navy (Retired)

Attachment D

Robert Hammond

(b) (6)

- No response to February 26, 2013
- Second request submitted

March 29, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,
Walter Reed National Medical Center
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: Privacy Act Request/FOIA Request Regarding Critical Sodium Value

Dear Ms. Bizzell and/or Privacy Officer,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522 and the Privacy Act, 5 U.S.C. subsection 522a. Please process this request under the Act that results in the lowest cost. If there are fees for searching or copying the records less than \$100 (which I agree to pay), please advise me before proceeding.

I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. By way of explanation, when laboratory values do not fall within the normal range (high or low) they are noted as such on laboratory reports/printouts for that patient along with the range of normal values. When an abnormal value is deemed critical, it is noted on the laboratory report/printout and may typically be identified with an asterisk. It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source. For example the normal range for NA+ might be 136 – 144 mEq/L with a critically low value less than 136 mEq/L.

Please provide your written reply within the prescribed timeframes.

Thank you in advance.

With my deepest respect,

(b) (6)

Robert Hammond
Commander, Supply Corps
United States Navy (Retired)

Attachment E

Response Provided by another Army 17AC

Size/Specimen:
SERUM

Units: mmol/L

Sex	Age Group	Upper Limit	Ref Low	Ref High	Panic Low	Panic High
MALE/NO SEX						
	NEWBORN TO 7DAY	0.0192	133	146	126	159
	8 to 31 DAYS	0.0849	134	144	126	159
	1 to 6 MONTHS	0.5832	134	142	126	159
	7MONTHS to 1YR	1.0000	133	142	126	159
	GREATER THAN 1Y	999.0000	137	145	126	159

A value of 126 mmol/L could be considered Panic on certain tests.

- This is a response provided by another Military Treatment Facility from the same computer systems used by WRNMMC
- A copy was provided to WRNMMC and DON JAG on appeal
- WRNMMC and DON JAG stated that WRNMMC could not produce a similar record from WRNMMC computer systems
- There was no remand back to WRNMMC
- WRNMMC released a similar record on March 13, 2015 (two years later)

Response by WRNMMC. Does not show the value that is CRITICAL. Only the reference range for NA+ of 136-145 is shown.

- This is from page 131 of my medical records released by WRNMMC on June 11, 2013; different request
- It was included in the appeal to DON JAG to show that is is non-responsive to my request
- The critical value of sodium (NA+) would not be displayed on my record or any other person's record
- Only the normal reference range (136 - 145 mEq/L) is shown
- Values at or below the Critical value are denoted by *=Critical. The Critical value in mEq/L is not shown

→ NA+	.....	(136-145)	mEq/L
K	.....	(3.5-5.1)	mEq/L
CL-	.....	(98-109)	mEq/L
CO2	.....	(20-31)	mEq/L
GLUCOSE	.....	(74-106)	mg/dL
BUN	.....	(6-20)	mg/dL

L=Lo H=Hi *=Critical R=Resist S=Susc MS=Mod Susc I=Intermed

(131)

ATTACHMENT E

(b) (6) CIV OPNAV, DNS-3

From: Patterson, Robin L CIV OPNAV, DNS-36
Sent: Thursday, July 30, 2015 14:26
To: **(b) (6)** CIV OPNAV, DNS-3
Cc: Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3
Subject: FW: Your FOIA Requests to BUMED
Attachments: Hammond Response.pdf; dd2564 (Rev 7-13).pdf; department_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf
Signed By: **(b) (6)** @navy.mil

Respectfully,

R. Patterson
Head, SECNAV/CNO FOIA/PA Program Office (DNS-36).
CNO Office of The Director, Navy Staff
Organization and Management Division
FOIA/PA Service Center 202 685-0412 DONFOIA-PA@NAVY.MIL

-----Original Message-----

From: **(b) (6)** CTR OPNAV, DNS-36
Sent: Wednesday, January 07, 2015 2:23 PM
To: **(b) (6)** @aol.com
Cc: 'OSD.FOIAPolicy@mail.mil'; Garcia, Della ; Muck, Steve CIV SECNAV, DON CIO **(b) (6)** 'BUMED.FOIA@med.navy.mil'; **(b) (6)** @nara.gov; **(b) (6)** @mail.mil; **(b) (6)** @nara.gov'; Julka, Christopher A CIV DON, CIO; 'ogis@nara.gov'; DON FOIA Public Liaison; 'FOIARequests@tma.osd.mil'; 'WRNMMC.PAO@health.mil'; Bizzell, Judy J CIV US WRNMMC **(b) (6)** @health.mil; Patterson, Robin L CIV OPNAV, DNS-36; DONFOIA-PA
Subject: RE: Your FOIA Requests to BUMED

Sir,

Please find attached a formal letter in response to your concerns. Please feel free to contact me with any further questions or concerns.

V/r,

(b) (6)
SECNAV/CNO FOIA Requester Service Center (DNS-36)
Contractor Support
(b) (6) @navy.mil

-----Original Message-----

From: (b) (6)@aol.com [mailto:(b) (6)@aol.com]
Sent: Saturday, January 03, 2015 6:14 AM
To: DONFOIA-PA; (b) (6) CTR OPNAV, DNS-36
Subject: Re: Your FOIA Requests to BUMED

Dear Mr. (b) (6)

Thank you for your email

Regarding my FOIA request for Walter Reed's FY 2012 Annual FOIA Report submission, it is a fully perfected request. I am simply asking that BUMED provide the responsive documents.

Regarding reporting, BUMED/Navy will have to sort that out. It is my understanding that upon receipt of a request, the Agency is required log the request into an accountable system of record, assign an Agency case tracking number, provide the requestor the case tracking number within ten days if the request will not be satisfied within twenty days along the web site where status may be tracked and report the request in their annual FOIA report submission. That didn't happen in this case. BUMED/Navy may wish to consider reviewing internal controls and training to prevent inadvertent error going forward.

I appreciate your valuable contribution as a support contractor. Please convey my thanks to the members of your office for your continuing support.

With my respect and appreciation.

Robert Hammond

In a message dated 12/3/2014 10:44:24 A.M. Eastern Standard Time, donfoia-pa@navy.mil writes:

Sir,

Upon review of the case history and coordination with BUMED, we believe that we may be able to address, and hopefully resolve, your concerns regarding the specific requests submitted to BUMED, as well as your larger concern with the FOIA Annual Report. In order to minimize confusion and avoid making this matter any more complicated than it has already become, we are requesting that we discuss this by telephone (with formal correspondence as a follow-up). Please contact me at the telephone number below at your earliest opportunity.

V/r,

(b) (6)

SECNAV/CNO FOIA Requester Service Center (DNS-36)
Contractor Support

(b) (6)

@navy.mil



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS

2000 NAVY PENTAGON

WASHINGTON, DC 20350-2000

5720

Ser DNS-36JP/15U105010

7 Jan 15

Sent via email to: (b) (6) @aol.com

Robert Hammond

(b) (6)

Dear Mr. Hammond:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT REQUESTS

This is in reference to a series of Freedom of Information Act (FOIA) requests submitted to Walter Reed National Military Medical Center (WRNMMC) and to the Bureau of Medicine and Surgery (BUMED). You have been in contact with these offices, as well as several offices along their respective chains of command, as well as an attempt to resolve this matter through mediation by the Office of Government Information Services (OGIS).

It is our understanding that your primary concern is the following: you submitted two (or more) FOIA requests to WRNMMC, which were (improperly) closed due to fee considerations. You appealed the response, and the ultimate result was that the fees were waived and your requests were processed. You are concerned not with the processing of those requests, but with the reporting of the disposition of the requests in the FOIA Annual Report. On this understanding, we are exclusively attempting to address your concern about the accuracy of the Annual Report.

Please be advised that the "raw data" you are seeking with regard to the Annual Report submissions, insofar as it addresses your direct concern, would be maintained solely by WRNMMC. Across DON, Annual Report Data is collected and compiled using DD FORM 2564. A blank copy of a DD FORM 2564 is attached. Please note that this form only tracks aggregate numbers, with no ability to infer the disposition of any specific request.

We contacted BUMED on this matter. BUMED advised that, due to unavoidable personnel management considerations, the BUMED FOIA office has been understaffed, which has delayed response to your multiple inquiries. We apologize for this delay. BUMED further advised that your requests had been directed to WRNMMC and that you were advised of this referral. Additionally, BUMED indicated that their offices have no record of a FOIA Annual Report submission from WRNMMC since Fiscal Year 2009.

With regard to WRNMMC, please be advised that recent reorganizations and redesignations have made it extremely difficult to determine which offices had administrative control over WRNMMC at which time, and that the specific matter of FOIA authority has been similarly unclear. The FOIA page for the WRNMMC website indicates that WRNMMC FOIA falls under the authority of DON. This is not correct. As of October 1, 2013, WRNMMC FOIA falls under the authority of the Defense Health Agency (DHA). If you have concerns about the service you are receiving from the WRNMMC Requester Service Center, please contact the DHA FOIA Liaison Officer at Defense Freedom of Information Policy Office, ATTN: Ms. Linda S. Thomas, Chief, Freedom of Information Service Center, Defense Health Agency, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042-5101, by phone at (703) 681-7500, or by email at FOIARequests@tma.osd.mil.

As an additional note, it is important to refer to the Department of Justice Office of Information Policy guidance regarding accurate completion of the Annual Report (copy attached). If your request was closed for a fee-related reason, appealed, remanded, and then processed to completion, it would be proper to report both the closure for the fee-related reason as well as the final disposition following remand ("For reporting purposes, a remanded request should be treated as a new request by the agency and the time spent processing the request should be included in the agency's Annual FOIA Report just as is done for all FOIA requests.")

In conclusion, please be advised that DON has no further involvement in this matter - WRNMMC no longer falls under DON for FOIA purposes, and BUMED properly responded to your requests for WRNMMC Annual Report data by referring those requests to WRNMMC. As noted above, if you have concerns about the service you are receiving from the WRNMMC Requester Service Center, please contact the DHA FOIA Liaison Officer.

We apologize for the difficulty you have had in the processing of your requests. Questions regarding this response may be directed to Mr. (b) (6) at (b) (6) or by email at (b) (6) @navy.mil.

Sincerely,



ROBIN PATTERSON
Head, DON PA/FOIA Program Office

Copy to:

Office of Government Information Services
Defense Freedom of Information Policy Office
Defense Health Agency Freedom of Information Service Center
Department of the Navy Chief Information Officer
Walter Reed National Military Medical Center Freedom of
Information Act Office
Bureau of Medicine and Surgery Freedom of Information Act Office



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

5720

Ser DNS-36PS/15U107076

24 Aug 15

Sent via email to: (b) (6) @aol.com

Mr. Robert Hammond

(b) (6)

Dear Mr. Hammond:

This is in reference to your Freedom of Information Act (FOIA) request dated July 22, 2015 for "Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to Walter Reed National Military Center (WRNMMC); Personal Reference number FOIA DON 15-I". Your request was received in our office the same day and assigned Case Tracking Number DON-NAVY-2015-007691.

Please find enclosed a copy of our response letter 5720 Ser DNS-36-JP/15U105010 dated 7 Jan 15 addressing your FOIA request.

Questions regarding this response may be directed to our FOIA Service Center at (202) 685-0412 or by email at donfoia-pa@navy.mil.

Sincerely,


FOR ROBIN PATTERSON
Head, DON PA/FOIA Program Office

Enclosure

Copy to:

Office of Government Information Services
Defense Freedom of Information Policy Office
Defense Health Agency Freedom of Information Service Center
Department of the Navy Chief Information Officer
Walter Reed National Military Medical Center Freedom of
Information Act Office
Bureau of Medicine and Surgery Freedom of Information Act Office



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

5720

Ser DNS-36JP/15U105010

7 Jan 15

Sent via email to: (b) (6) @aol.com

Robert Hammond

(b) (6)

Dear Mr. Hammond:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT REQUESTS

This is in reference to a series of Freedom of Information Act (FOIA) requests submitted to Walter Reed National Military Medical Center (WRNMMC) and to the Bureau of Medicine and Surgery (BUMED). You have been in contact with these offices, as well as several offices along their respective chains of command, as well as an attempt to resolve this matter through mediation by the Office of Government Information Services (OGIS).

It is our understanding that your primary concern is the following: you submitted two (or more) FOIA requests to WRNMMC, which were (improperly) closed due to fee considerations. You appealed the response, and the ultimate result was that the fees were waived and your requests were processed. You are concerned not with the processing of those requests, but with the reporting of the disposition of the requests in the FOIA Annual Report. On this understanding, we are exclusively attempting to address your concern about the accuracy of the Annual Report.

Please be advised that the "raw data" you are seeking with regard to the Annual Report submissions, insofar as it addresses your direct concern, would be maintained solely by WRNMMC. Across DON, Annual Report Data is collected and compiled using DD FORM 2564. A blank copy of a DD FORM 2564 is attached. Please note that this form only tracks aggregate numbers, with no ability to infer the disposition of any specific request.

We contacted BUMED on this matter. BUMED advised that, due to unavoidable personnel management considerations, the BUMED FOIA office has been understaffed, which has delayed response to your multiple inquiries. We apologize for this delay. BUMED further advised that your requests had been directed to WRNMMC and that you were advised of this referral. Additionally, BUMED indicated that their offices have no record of a FOIA Annual Report submission from WRNMMC since Fiscal Year 2009.

With regard to WRNMMC, please be advised that recent reorganizations and redesignations have made it extremely difficult to determine which offices had administrative control over WRNMMC at which time, and that the specific matter of FOIA authority has been similarly unclear. The FOIA page for the WRNMMC website indicates that WRNMMC FOIA falls under the authority of DON. This is not correct. As of October 1, 2013, WRNMMC FOIA falls under the authority of the Defense Health Agency (DHA). If you have concerns about the service you are receiving from the WRNMMC Requester Service Center, please contact the DHA FOIA Liaison Officer at Defense Freedom of Information Policy Office, ATTN: Ms. Linda S. Thomas, Chief, Freedom of Information Service Center, Defense Health Agency, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042-5101, by phone at (703) 681-7500, or by email at FOIARequests@tma.osd.mil.

As an additional note, it is important to refer to the Department of Justice Office of Information Policy guidance regarding accurate completion of the Annual Report (copy attached). If your request was closed for a fee-related reason, appealed, remanded, and then processed to completion, it would be proper to report both the closure for the fee-related reason as well as the final disposition following remand ("For reporting purposes, a remanded request should be treated as a new request by the agency and the time spent processing the request should be included in the agency's Annual FOIA Report just as is done for all FOIA requests.")

In conclusion, please be advised that DON has no further involvement in this matter - WRNMMC no longer falls under DON for FOIA purposes, and BUMED properly responded to your requests for WRNMMC Annual Report data by referring those requests to WRNMMC. As noted above, if you have concerns about the service you are receiving from the WRNMMC Requester Service Center, please contact the DHA FOIA Liaison Officer.

We apologize for the difficulty you have had in the processing of your requests. Questions regarding this response may be directed to Mr. (b) (6) at (b) (6) or by email at (b) (6) @navy.mil.

Sincerely,



ROBIN PATTERSON
Head, DON PA/FOIA Program Office

Copy to:

Office of Government Information Services
Defense Freedom of Information Policy Office
Defense Health Agency Freedom of Information Service Center
Department of the Navy Chief Information Officer
Walter Reed National Military Medical Center Freedom of
Information Act Office
Bureau of Medicine and Surgery Freedom of Information Act Office



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1322 PATTERSON AVENUE SE SUITE 3000
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO

5720

Ser 14/020

October 26, 2015

Mr. Robert Hammond

(b) (6)

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) APPEAL DON-NAVY-2015-008860

This responds to your appeal letter dated and received on August 30, 2015, in which you appealed the Chief of Naval Operations FOIA Office's (DNS-36) response to your request for tracking databases and systems showing receipt and processing of your Fiscal Year 2013 FOIA request to Walter Reed National Military Medical Center.

Your appeal is a request for a final determination under the FOIA. I grant your appeal. It is unclear from the DNS-36 response if a search was conducted or, if a referral was necessary, that a referral to the appropriate command was made. I am accordingly remanding this issue back to DSN-36 to identify the responsible agencies for the relevant time periods and requesting a thorough search be conducted for the records you have requested.

I am asking DNS-36 to respond directly to you and to respond to your request within 20 business days of the date of this letter unless additional time is required, in which case they will contact you to inform you of the extension. You will retain the right to appeal their response to my office. Should you have further questions or concerns, my point of contact is LT (b) (6) JAGC, USN, who may be reached at:

(b) (6) @navy.mil, or (b) (6)

Sincerely,

G. E. LATTIN

Director

General Litigation Division

Copy to:
DNS-36



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1322 PATTERSON AVENUE SE SUITE 3000
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/021

26 Oct 15

From: Director, General Litigation Division
To: Chief of Naval Operations (DNS-36)

Subj: FREEDOM OF INFORMATION ACT (FOIA) APPEAL DON-NAVY-2015-008860


Ref: (a) 5 U.S.C. § 552
(b) SECNAVINST 5720.42F

(b) (5)

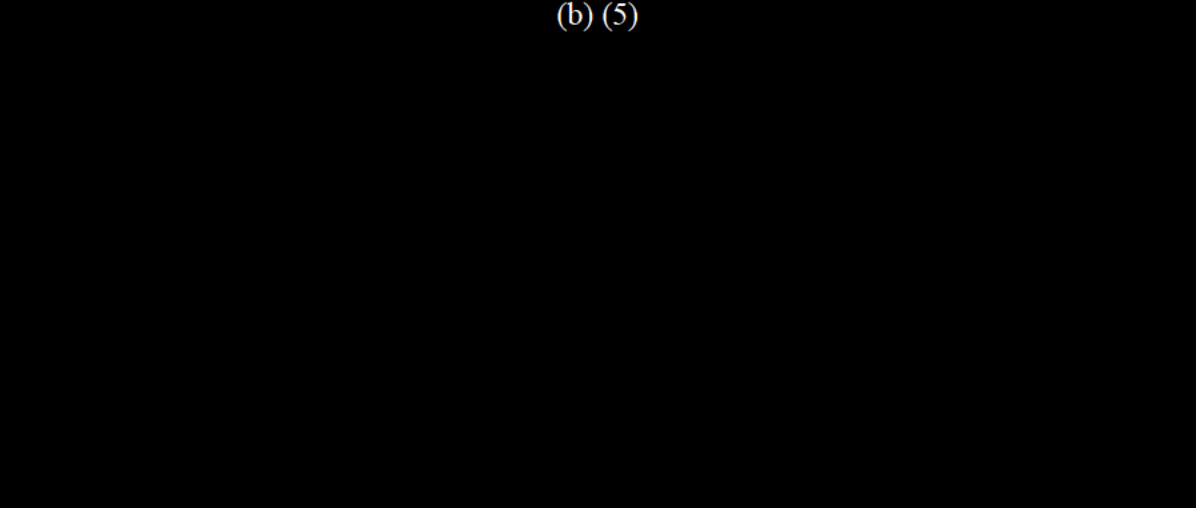
A large, solid black rectangular redaction box covers the majority of the page, starting below the reference text and extending to the bottom and sides of the document. The text "(b) (5)" is printed in the upper left corner of this redacted area.

Subj: FREEDOM OF INFORMATION ACT (FOIA) APPEAL DON-NAVY-2015-008860

(b) (5)



(b) (5)



G. E. LATTIN
Director
General Litigation Division



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1322 PATTERSON AVENUE SE SUITE 3000
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720
Ser 14/405
September 3, 2015

Mr. Robert Hammond

(b) (6)

Dear Mr. Hammond:

SUBJECT: FREEDOM OF INFORMATION ACT APPEAL DON-NAVY-2015-008860

This letter acknowledges receipt of your correspondence regarding your Freedom of Information Act (FOIA) appeal that was received in our office on Aug 30, 2015. Your case has been assigned file number DON-NAVY-2015-008860. Please refer to that file number for any future questions or correspondence concerning your appeal.

In fairness to all requesters, we process all appeals in the order in which they are received. Processing times may be affected by the number and complexity of pending appeals. For that reason, we are unable to provide an estimated completion date at this time. Your rights to judicial review will not be prejudiced by waiting for a substantive determination regarding your appeal. We will work as expeditiously as possible, however, to respond to your request within 20 working days as outlined in the FOIA regulations.

You may contact me at (b) (6) or (b) (6) @navy.mil if you have any questions concerning the processing of your appeal. Please provide your last name and the above assigned file number in any correspondence.

Sincerely,

Wendy A. Winston
Legal Administrative Specialist
General Litigation Division

Request Details

Status : Closed ; Appealed Due Date : 09/02/2015

13

Submitted Evaluation Assignment Processing Closed

Tracking Number : DON-NAVY-2015-007691	Submitted Date : 07/22/2015
Requester : Mr. robert hammond	Last Assigned Date : 07/27/2015
Organization : N/A	Fee Limit : \$50.00
Requester Has Account : Yes	Request Track : Simple
Email Address : (b) (6) @aol.com	Due Date : 09/02/2015
Phone Number : (b) (6)	Assigned To : (b) (6) (Chief of Naval Operations)
Fax Number : N/A	Last Assigned By : Richard Strong (Chief of Naval Operations)
Address : (b) (6)	
City : (b) (6)	
State/Province :	
Zip Code/Postal Code :	

Submission Details

Case File

Admin Cost

Assigned Tasks

Comments (3)

Review

Direct URL : http://localhost:8080/foia/action/public/view/request/8081863b

Case Details

Type of Case : FOIA	Received Date : 07/22/2015
Fiscal Year : 2015	Clock Initially Started On : 08/05/2015
Total Days Pending : 13	Closed Date : 08/24/2015
Final Disposition : Full grant	

Records

Consultations

Correspondence

Appeals

Financing

Restricted Materials

Correspondence to Requester

4 items found, displaying all items.

Subject	From	To	Date	Detail	Remove
Final Disposition, Request DON-NAVY-2015-007691	(b) (6)	(UNSENT)	08/25/2015		

DON-NAVY-2015-007691 has been processed with the following final disposition: Full grant.

FOIA Fee Waiver Disposition Reached for DON-NAVY-2015-007691	System	robert hammond	08/24/2015	
--	--------	----------------	------------	--

Subject * From * To * Date * Detail Remove

Your request for Fee Waiver for the FOIA request DON-NAVY-2015-007691 has been determined to be not applicable as the request is not billable. Additional details for this request are as follows:

- Request Created on: 07/22/2015
- Request Long Description: I am seeking records my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests. It is records from DON tracking systems that are potentially used for compiling the Annual FOIA Report submission that I am seeking. The current system is <https://foiaonline.regulations.gov/>, but the records that I am seeking may have been contained in a predecessor system, if they were not brought forward. Note that records released under the FOIA (DON-NAVY-2015-002302) demonstrate that WRNMMC FOIA requests were included in the DON Annual FOIA Report submission. Moreover, many requests were appealed to DON JAG and would have had to have been included in the DON JAG FY2013 Annual FOIA Report submission. Enclosure (1) is a listing of individual FOIA requests submitted to Walter Reed National Military Medical Center (WRNMMC). It is my understanding that DON/DON JAG maintains one or more automated system(s) database(s) for tracking FOIA requests and FOIA appeals and that each FOIA request that I submitted to WRNMMC and each FOIA request that I appealed should have been recorded in DON automated systems. It is my understanding that such automated tracking systems/database(s) are used in compiling the Annual FOIA Report submission and that subordinate activity requests, such as those that I submitted to WRNMMC would have been entered into such DON-wide tracking systems. The records that I am seeking should be readily available and easily located by FOIA personnel. This is a simple request.

DON-NAVY-2015-007691

(b) (6)

robert hammond

08/24/2015

08/24/2015 03:15 PM

FOIA Request: DON-NAVY-2015-007691

Please see attached correspondence

✓ [DON-NAVY-2015-007691-RESP TO REQUESTER.pdf](#), PDF, 0.21 MB (remove)

FOIA Request DON-NAVY-2015-007691 Submitted

System

robert hammond

07/22/2015

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request information is as follows:

- Tracking Number: DON-NAVY-2015-007691
- Requester Name: robert hammond
- Date Submitted: 07/22/2015
- Request Status: Submitted
- Description: I am seeking records my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests. It is records from DON tracking systems that are potentially used for compiling the Annual FOIA Report submission that I am seeking. The current system is <https://foiaonline.regulations.gov/>, but the records that I am seeking may have been contained in a predecessor system, if they were not brought forward. Note that records released under the FOIA (DON-NAVY-2015-002302) demonstrate that WRNMMC FOIA requests were included in the DON Annual FOIA Report submission. Moreover, many requests were appealed to DON JAG and would have had to have been included in the DON JAG FY2013 Annual FOIA Report submission. Enclosure (1) is a listing of individual FOIA requests submitted to Walter Reed National Military Medical Center (WRNMMC). It is my understanding that DON/DON JAG maintains one or more automated system(s) database(s) for tracking FOIA requests and FOIA appeals and that each FOIA request that I submitted to WRNMMC and each FOIA request that I appealed should have been recorded in DON automated systems. It is my understanding that such automated tracking systems/database(s) are used in compiling the Annual FOIA Report submission and that subordinate activity requests, such as those that I submitted to WRNMMC would have been entered into such DON-wide tracking systems. The records that I am seeking should be readily available and easily located by FOIA personnel. This is a simple request.

4 items found, displaying all items.

1

Other Correspondence

3 items found, displaying all items.





1

Attached File

Type

Size (MB)

Remove

Attached File	Type	Size (MB)	Remove
DON-NAVY-2015-007691-ADMIN LOG.pdf	PDF	0.39	
DON-NAVY-2015-007691-EMAILS REQ HISTORY.pdf	PDF	2.94	
DON-NAVY-2015-007691-EMAIL BTWN (b) (6) DNS-36 & D. GARCIA BUMED.pdf	PDF	0.01	
3 items found, displaying all items.			
			

(b) (6) CIV OPNAV, DNS-3

From: Garcia, Della W CIV USN BUMED FCH VA (US) **(b) (6)**@mail.mil>
Sent: Thursday, July 30, 2015 9:51
To: **(b) (6)** CIV OPNAV, DNS-3
Cc: Patterson, Robin L CIV OPNAV, DNS-36
Subject: RE: DON-NAVY-2015-007691

Good morning.

Have you talked with Robin about this one? This is a requester that she helped me out with in the past and you guys wrote a response to.

Is he really asking for a copy of his own requests?

v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste 5124
Falls Church, VA 22042-5124

COMM **(b) (6)**

(b) (6)@mail.mil

FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

-----Original Message-----

From: **(b) (6)** CIV OPNAV, DNS-3 [mailto:**(b) (6)**@navy.mil]
Sent: Thursday, July 30, 2015 8:34 AM
To: Garcia, Della W CIV USN BUMED FCH VA (US)
Cc: **(b) (6)** CIV USN CNO (US)
Subject: DON-NAVY-2015-007691
Importance: High

Della:

Please review the attached FOIA request

(b) (5)

Do you agree?

v/r,

(b) (6)

(b) (6) CIV OPNAV, DNS-3

From: Patterson, Robin L CIV OPNAV, DNS-36
Sent: Thursday, July 30, 2015 14:32
To: **(b) (6)** CIV OPNAV, DNS-3
Subject: FW: FOIA Request – Critical Low Value of Sodium Stored in WRNMMC Computers
Attachments: clip_image002.png; REPLYT~4.PDF
Signed By: **(b) (6)** @navy.mil

-----Original Message-----

From: **(b) (6)** @aol.com [mailto:**(b) (6)** @aol.com]
Sent: Saturday, April 18, 2015 8:31 AM
To: **(b) (6)** @mail.mil; **(b) (6)** @mail.mil
Cc: OSD.FOIAPolicy@mail.mil; Garcia, Della : Muck, Steve CIV SECNAV, DON CIO; **(b) (6)** ;
BUMED.FOIA@med.navy.mil; **(b) (6)** @nara.gov; **(b) (6)** @mail.mil; **(b) (6)** @nara.gov; Julka,
Christopher A CIV DON, CIO; ogis@nara.gov; **(b) (6)** @mail.mil; **(b) (6)** @tma.osd.mil;
(b) (6) @mail.mil; **(b) (6)** @mail.mil; DON FOIA Public Liaison;
FOIARequests@tma.osd.mil; **(b) (6)** @mail.mil; Patterson, Robin L CIV OPNAV, DNS-36; DONFOIA-PA;
(b) (6) @mail.mil; Lattin, Grant E CIV OJAG, CODE 14; **(b) (6)** @mail.mil;
(b) (6) @mail.mil; **(b) (6)** @mail.mil; osd.ncr.ocam.mxb.dcplo-correspondence@mail.mil;
PrivacyMail@mail.mil; **(b) (6)** @aol.com
Subject: Re: FOIA Request – Critical Low Value of Sodium Stored in WRNMMC Computers

Robert Hammond

(b) (6)

(b) (6) @aol.com

April 18, 2015

Mr. Joe E. Davidge
Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office Walter Reed National Military Medical Center
(WRNMMC)
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430 Bethesda, Maryland 20889-5600

Ms. Judy Bizzell
FOIA Officer, WRNMMC
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430 Bethesda, Maryland 20889-5600

Subject: FOIA Request of February 26, 2013 – Critical Low Value of Sodium Stored in WRNMMC Computers

Reference: (a) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act

Enclosure: (1) (b) (6) @mail.mil email sent 3.13.2015 at 6.03.35 P.M. Eastern

Daylight Time with attachments

(2) (b) (6) @mail.mil email sent: 3/12/2015 1:49:13 P.M. Eastern

Daylight Time

(3) Hammond FOIA Appeal of 20 July 2013

(4) Hammond ltr of March 21, 2015, subject as above

Dear Mr. Davidge and Ms. Bizzell,

I am writing to you as the Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office and as the FOIA Officer to respectfully express concern with the WRNMMC processing of my FOIA request of February 26, 2013 for the critical low value of sodium stored in WRNMMC computers in December 2011. Enclosures (1), (2) and (3) apply. In documenting these concerns below, it is my hope this request will be completed without the need for appeal and that improvements in FOIA and Privacy Act processing will be implemented at all levels going forward. I am particularly concerned about WRNMMC's frequent misuse of the (b)(6) [privacy] exemption. Multiple appeals are currently pending adjudication.

First, I am concerned that my February 26, 2013 FOIA request be reported to DOD leadership and the Attorney General of the United States with the effective date of my original FOIA request date. The record released at Enclosure (1) on March 13, 2015 (under your FOIA case tracking number 15-15) that identifies the critical low value of sodium stored in WRNMMC laboratory computer systems in December 2011 is not a response to any FY 2015 FOIA request. References in your emails to other FOIA requests are misleading. This is in fact a response to my FOIA request of February 26, 2013 sent to your office by certified mail on that date and then sent again on March 29, 2013 when I received no acknowledgement or reply to my February 26, 2013 request. Please also see at Enclosure (3) my appeal of my February 26, 2013 FOIA request seeking these records.

Second, I am concerned that WRNMMC withheld the record at Enclosure (1) for two years, denying its existence up until the day before it was released. That is not to say that the FOIA Officer is responsible. I recognize that any FOIA Officer may only release documents that are provided in response to (appropriately constructed) searches by the FOIA office and as approved for release by management following legal review.

Third, I am concerned by WRNMMC's assertion maintained until 03/12/2015 that specific pages of my personal medical records (that do not even contain the critical value of sodium) constituted a reasonable search or that I sought such records to document the critical low value of sodium in WRNMMC computer systems. The critical low value of sodium would not be identified in the personal medical records of any individual. Moreover, WRNMMC's assertions are contradicted by all FOIA case records, including the request itself, my appeal of the FOIA request at Enclosure (3), and an extremely large body of emails, formal follow-ups, and other correspondence. My request for the critical low value of sodium clearly states:

"I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. [Intervening text omitted] It is the critically low value for sodium NA+ that I am seeking that is stored in the computer – not from any other source."

Moreover, in 2013 I provided a sample printout from another Navy Military Treatment Facility using same computer systems as WRNMMC and I consistently directed WRNMMC to laboratory computer records, system change logs and files. During appeal of this request in 2013, the DON JAG action officer stated that WRNMMC advised him that laboratory computer system records did not exist and could not be produced. The DON JAG final determination letter repeats that assertion, stating that, "there is no system generated printout that satisfies this FOIA request." And, the WRNMMC email of March 12, 2015 (two years later) states that, "This office has no further documents responsive to this request."

Forth, the record released on March 13, 2015 showing the critical low value of sodium stored in the WRNMMC computer systems between December 23, 2011 and December 29, 2011 was printed on 16AUG2014. It is not clear if or why the record was not located prior to that date, why WRNMMC was officially maintaining that no such record existed through March 12, 2013, and why WRNMMC withheld the record until March 13, 2015.

Lastly, I am very concerned about the frequent misuse of the (b)(6) privacy exemption to withhold or redact information that is clearly not exempt and about redactions made without any statutory basis. The record released by your office contains redactions that are not in line with the FOIA, the Privacy Act or governing laws, regulations and policies. It is notable that after more than two years of maintaining that no record exists, WRNMMC released a redacted record. I am respectfully challenging your redaction that states, "Last 4 Lines of redaction due to (b)(6) exemption under the FOIA." My understanding is that such redaction would only apply to Privacy Act protected information, such as name in conjunction with SSN, but not to name alone. Records identifying personnel who took official actions is not exempt. And, I am aware of no exemption that would apply to the redaction that you labeled, "NOT RESONSIVE TO REQUEST." This redacted information is an integral part of the record, providing context that is required to be released under the FOIA.

I offer for your consideration that it may be appropriate to consult with Department of Navy and Defense Health Agency regarding guidance for amending/correcting past FOIA/Privacy Act reports:

I am hoping that this request can be resolved without appeal and that other WRNMMC FOIA/Privacy Act requests can be addressed fully at the WRNMMC or DHA level.

Thank you in advance for attention to this matter and for your cooperation.

With my respect,

Robert Hammond

Copy to:

Linda S. Thomas, JD, CIPP/G, PMP, CISSP
Chief, DHA Privacy and Civil Liberties Office

Office of the Assistant Secretary of Defense Health Affairs

7700 Arlington Boulevard, Suite 5101

Falls Church, VA 22042-5101

Chief, Defense Freedom of Information Policy Office

Office of the Secretary of Defense, Administration

1950 Defense Pentagon

Washington DC 20301 - 1950

OSD.FOIAPolicy@mail.mil,

(b) (6) @MED.NAVY.MIL

(b) (6) @navy.mil,

(b) (6) @MED.NAVY.MIL,

BUMED.FOIA@med.navy.mil,

(b) (6) @nara.gov,

(b) (6) @mail.mil,

(b) (6) @nara.gov,

christopher.a.julka@navy.mil,

ogis@nara.gov <mailto:ogis@nara.gov> ,

(b) (6) @mail.mil <mailto:(b) (6) @mail.mil> ,

(b) (6) @tma.osd.mil <mailto:(b) (6) @tma.osd.mil> ,

(b) (6) @mail.mil <mailto:(b) (6) @mail.mil>

(b) (6) @mail.mil <mailto:(b) (6) @mail.mil>

DONFOIAPublicLiaison@navy.mil,

FOIARequests@tma.osd.mil,

(b) (6) @mail.mil,

(b) (6) @navy.mil,

donfoia-pa@navy.mil,

(b) (6) @mail.mil,

(b) (6) @navy <mailto:(b) (6) @navy> .mil,

(b) (6) @mail.mil <mailto:(b) (6) @mail.mil> ,

(b) (6) @mail.mil <mailto:(b) (6) @mail.mil> ,

(b) (6) @mail.mil <mailto:(b) (6) @mail.mil>

osd.ncr.ocam.mxb.dcplo-correspondence@mail.mil <mailto:osd.ncr.ocam.mxb.dcplo-correspondence@mail.mil> ,
PrivacyMail@mail.mil <mailto:PrivacyMail@mail.mil>

In a message dated 3/22/2015 5:33:25 A.M. Eastern Daylight Time (b) (6) @aol.com writes:

Robert Hammond

(b) (6)

(b) (6)

(b) (6) @aol.com

March 21, 2015

Joe Davidge
Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office
Walter Reed National Military Medical Center (WRNMMC)
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Subject: FOIA Request – Critical Low Value of Sodium Stored in WRNMMC Computers

Reference: (a) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act

Enclosure: (1) (b) (6) @mail.mil email sent 3.13.2015 at 6.03.35 P.M. Eastern Daylight Time with attachments

(2) (b) (6) @mail.mil <mailto:(2)%20(b) (6) @mail.mil> email sent: 3/12/2015 1:49:13 P.M. Eastern Daylight Time

(3) Hammond FOIA Appeal of 20 July 2013

Dear Mr. Davidge,

I am writing to you as the Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office to express concern with the WRNMMC processing of my FOIA request of February 26, 2013 for the critical low value of sodium stored in WRNMMC computers in December 2011 and to request specific actions. Enclosures (1), (2) and (3) apply. In documenting these concerns, it is my hope that specific actions related to this request will be completed and that improvements in FOIA and PA processing will be implemented at all levels going forward.

First, I am concerned that this FOIA request be accurately reported to DOD leadership and the Attorney General of the United States with the effective date of my original FOIA request of February 26, 2013. The record released in Attachment (a) of Enclosure (1) identifying the critical low value of sodium stored in WRNMMC laboratory computer systems in December 2011 is not a response to any FY 2015 FOIA request. This response is actually to my FOIA request of February 26, 2013 sent to your office by certified mail on that date and then again on March 26, 2013 when I received no acknowledgement or reply to my February 26, 2013 request. Please also see Attachment C of my appeal of that FOIA request at Enclosure (3).

ACTIONS REQUESTED. Please:

- enter this request for the critical low value of sodium stored in WRNMMC computers into the DHA central FOIA case tracking database with an effective date of February 26, 2013, when it was submitted;
- preserve all records responsive to or potentially responsive to this request that existed at the time of this request until final action has been taken and the statutory time for judicial review has passed or in accordance with a NARA approved record schedule, if longer;
- preserve all correspondence, including this letter, emails and other communications regarding this request in the FOIA case file and in the DHA FOIA case tracking database;
- preserve all records of searches that you have conducted and those conducted in the future;
- recover and preserve any records that have been archived;
- provide a final decision letter for this request that includes the responsive records without redaction.

Second, I am concerned that WRNMMC - with intent - withheld the record at Enclosure (1) and denied its existence or ability to produce the record for two years, up until the day before it was released. All case records and correspondence affirm this. That is not to say that the FOIA Officer is responsible. I recognize that any FOIA Officer may only release documents that are provided in response to appropriately constructed searches by the FOIA office and as approved for release by management following legal review.

The assertion maintained by WRNMMC until 03/12/2015 1:49:13 P.M. Eastern Daylight Time that specific pages of my personal medical records related to a separate FOIA request - that do not even contain the critical value of sodium - constituted a reasonable search or that I sought those records to document the critical low value of sodium in WRNMMC computer systems is not credible.

The critical low value of sodium would not be identified in the personal medical records of any individual. Moreover, the WRNMMC assertions are contradicted by all FOIA case records, including the request itself, my FOIA appeal of that request at Enclosure (3), an extremely large body of emails, formal follow-ups, and multiple requests related to that matter (which must all be preserved in FOIA case files). My request for the critical low value of sodium states:

I am requesting the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed. [Intervening text omitted] It is the critically low value for sodium Na^+ that I am seeking that is stored in the computer - not from any other source.

It is concerning that in the email of March 12, 2013 WRNMMC omitted the full text of my request, including the last sentence highlighted above. Moreover, in 2013 I provided a sample printout from another Navy Military Treatment Facility using same computer system as WRNMMC and I consistently directed WRNMMC to laboratory computer records, system change logs and files.

During appeal of this request in 2013, the DON JAG action officer stated that WRNMMC was maintaining that laboratory computer system records did not exist and could not be produced. The WRNMMC email of March 12, 2015 suggests the same - reflecting no intent to acknowledge the existence of or to release the record - stating that: "This office has no further documents responsive to this request."

Third, the record released on March 3, 2015 showing the critical low value of sodium stored in the WRNMMC computer systems between December 23, 2011 and December 29, 2011 has a print date of 16AUG2014. It is not clear why WRNMMC was not able to locate this record prior to that time, why it was not provided to or released by the FOIA Office until March 13, 2015 or why on March 12, 2013 WRNMMC was officially maintaining that no such record existed.

Fourth (and significantly) I am concerned about what I view as the continued misuse of the (b)(6) privacy exemption to withhold or redact information clearly not exempted and about redactions without any statutory basis. There are multiple instances of this, which may be addressed in the future.

The record released contains redactions that are not in line with the FOIA, the Privacy Act or governing laws, regulations and directives. The fact that after more than two years, WRNMMC released a redacted record is concerning, suggesting that the redacted information may be related to the delayed release itself. I am aware of no exemption that would apply to the redaction labeled "NOT RESONSIVE TO REQUEST." This information is an integral part of the record being released, providing context that is required to be released under the FOIA.

Next, I am challenging the redaction: "Last 4 Lines of redaction due to (b)(6) exemption under the FOIA." My understanding is that such redaction would only apply to Privacy Act protected information, such as name in conjunction with SSN, but not to name alone, for example. Records identifying personnel who took official actions is not exempt. As a matter of principal and compliance, I am challenging that any of the redacted information is exempt and asking that all information not specifically exempt by the PA be released.

In closing, I offer a final thought for your consideration. It may be appropriate to consult with Department of Navy and Defense Health Agency regarding guidance for amending/correcting past FOIA/PA reports.

I am interested in my FOIA/PA requests being properly addressed, for all records to be provided and for the FOIA/PA processes and appeals to work the way that they are supposed to. I am hoping that this request can be resolved without appeal and that other WRNMMC FOIA/PA matters can be resolved at the WRNMMC or DHA level.

I will greatly appreciate your prompt attention to this letter and timely reply.

Thank you in advance.

With my respect,

Robert Hammond

Copy to:

Judy Bizzell
FOIA Officer, WRNMMC
8901 Wisconsin Avenue, Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Linda S. Thomas, JD, CIPP/G, PMP, CISSP
Chief, DHA Privacy and Civil Liberties Office

Office of the Assistant Secretary of Defense Health Affairs

7700 Arlington Boulevard, Suite 5101

Falls Church, VA 22042-5101

(b) (6) CIV OPNAV, DNS-3

From: Patterson, Robin L CIV OPNAV, DNS-36
Sent: Thursday, July 30, 2015 14:26
To: **(b) (6)** CIV OPNAV, DNS-3
Cc: Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3
Subject: FW: Your FOIA Requests to BUMED
Attachments: Hammond Response.pdf; dd2564 (Rev 7-13).pdf; department_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf
Signed By: **(b) (6)** @navy.mil

Respectfully,

R. Patterson
Head, SECNAV/CNO FOIA/PA Program Office (DNS-36).
CNO Office of The Director, Navy Staff
Organization and Management Division
FOIA/PA Service Center 202 685-0412 DONFOIA-PA@NAVY.MIL

-----Original Message-----

From: **(b) (6)** CTR OPNAV, DNS-36
Sent: Wednesday, January 07, 2015 2:23 PM
To: **(b) (6)** @aol.com
Cc: 'OSD.FOIAPolicy@mail.mil'; Garcia, Della ; Muck, Steve CIV SECNAV, DON CIO; **(b) (6)** ; 'BUMED.FOIA@med.navy.mil'; **(b) (6)** @nara.gov; **(b) (6)** @mail.mil; **(b) (6)** @nara.gov; Julka, Christopher A CIV DON, CIO; 'ogis@nara.gov'; DON FOIA Public Liaison; 'FOIARequests@tma.osd.mil'; 'WRNMMC.PAO@health.mil'; Bizzell, Judy J CIV US WRNMMC **(b) (6)** @health.mil; Patterson, Robin L CIV OPNAV, DNS-36; DONFOIA-PA
Subject: RE: Your FOIA Requests to BUMED

Sir,

Please find attached a formal letter in response to your concerns. Please feel free to contact me with any further questions or concerns.

V/r,

(b) (6)
SECNAV/CNO FOIA Requester Service Center (DNS-36)
Contractor Support

(b) (6) @navy.mil

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Saturday, January 03, 2015 6:14 AM
To: DONFOIA-PA/(b) (6) CTR OPNAV, DNS-36
Subject: Re: Your FOIA Requests to BUMED

Dear Mr. (b) (6)

Thank you for your email

Regarding my FOIA request for Walter Reed's FY 2012 Annual FOIA Report submission, it is a fully perfected request. I am simply asking that BUMED provide the responsive documents.

Regarding reporting, BUMED/Navy will have to sort that out. It is my understanding that upon receipt of a request, the Agency is required log the request into an accountable system of record, assign an Agency case tracking number, provide the requestor the case tracking number within ten days if the request will not be satisfied within twenty days along the web site where status may be tracked and report the request in their annual FOIA report submission. That didn't happen in this case. BUMED/Navy may wish to consider reviewing internal controls and training to prevent inadvertent error going forward.

I appreciate your valuable contribution as a support contractor. Please convey my thanks to the members of your office for your continuing support.

With my respect and appreciation.

Robert Hammond

In a message dated 12/3/2014 10:44:24 A.M. Eastern Standard Time, donfoia-pa@navy.mil writes:

Sir,

Upon review of the case history and coordination with BUMED, we believe that we may be able to address, and hopefully resolve, your concerns regarding the specific requests submitted to BUMED, as well as your larger concern with the FOIA Annual Report. In order to minimize confusion and avoid making this matter any more complicated than it has already become, we are requesting that we discuss this by telephone (with formal correspondence as a follow-up). Please contact me at the telephone number below at your earliest opportunity.

v/r,

(b) (6)

SECNAV/CNO FOIA Requester Service Center (DNS-36)
Contractor Support

(b) (6)

@navy.mil



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS

2000 NAVY PENTAGON

WASHINGTON, DC 20350-2000

5720

Ser DNS-36JP/15U105010

7 Jan 15

Sent via email to: (b) (6) @aol.com

Robert Hammond

(b) (6)

Dear Mr. Hammond:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT REQUESTS

This is in reference to a series of Freedom of Information Act (FOIA) requests submitted to Walter Reed National Military Medical Center (WRNMMC) and to the Bureau of Medicine and Surgery (BUMED). You have been in contact with these offices, as well as several offices along their respective chains of command, as well as an attempt to resolve this matter through mediation by the Office of Government Information Services (OGIS).

It is our understanding that your primary concern is the following: you submitted two (or more) FOIA requests to WRNMMC, which were (improperly) closed due to fee considerations. You appealed the response, and the ultimate result was that the fees were waived and your requests were processed. You are concerned not with the processing of those requests, but with the reporting of the disposition of the requests in the FOIA Annual Report. On this understanding, we are exclusively attempting to address your concern about the accuracy of the Annual Report.

Please be advised that the "raw data" you are seeking with regard to the Annual Report submissions, insofar as it addresses your direct concern, would be maintained solely by WRNMMC. Across DON, Annual Report Data is collected and compiled using DD FORM 2564. A blank copy of a DD FORM 2564 is attached. Please note that this form only tracks aggregate numbers, with no ability to infer the disposition of any specific request.

We contacted BUMED on this matter. BUMED advised that, due to unavoidable personnel management considerations, the BUMED FOIA office has been understaffed, which has delayed response to your multiple inquiries. We apologize for this delay. BUMED further advised that your requests had been directed to WRNMMC and that you were advised of this referral. Additionally, BUMED indicated that their offices have no record of a FOIA Annual Report submission from WRNMMC since Fiscal Year 2009.

With regard to WRNMMC, please be advised that recent reorganizations and redesignations have made it extremely difficult to determine which offices had administrative control over WRNMMC at which time, and that the specific matter of FOIA authority has been similarly unclear. The FOIA page for the WRNMMC website indicates that WRNMMC FOIA falls under the authority of DON. This is not correct. As of October 1, 2013, WRNMMC FOIA falls under the authority of the Defense Health Agency (DHA). If you have concerns about the service you are receiving from the WRNMMC Requester Service Center, please contact the DHA FOIA Liaison Officer at Defense Freedom of Information Policy Office, ATTN: Ms. Linda S. Thomas, Chief, Freedom of Information Service Center, Defense Health Agency, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042-5101, by phone at (703) 681-7500, or by email at FOIARequests@tma.osd.mil.

As an additional note, it is important to refer to the Department of Justice Office of Information Policy guidance regarding accurate completion of the Annual Report (copy attached). If your request was closed for a fee-related reason, appealed, remanded, and then processed to completion, it would be proper to report both the closure for the fee-related reason as well as the final disposition following remand ("For reporting purposes, a remanded request should be treated as a new request by the agency and the time spent processing the request should be included in the agency's Annual FOIA Report just as is done for all FOIA requests.")

In conclusion, please be advised that DON has no further involvement in this matter - WRNMMC no longer falls under DON for FOIA purposes, and BUMED properly responded to your requests for WRNMMC Annual Report data by referring those requests to WRNMMC. As noted above, if you have concerns about the service you are receiving from the WRNMMC Requester Service Center, please contact the DHA FOIA Liaison Officer.

We apologize for the difficulty you have had in the processing of your requests. Questions regarding this response may be directed to Mr. (b) (6) at (b) (6) or by email at (b) (6) @navy.mil.

Sincerely,



ROBIN PATTERSON
Head, DON PA/FOIA Program Office

Copy to:

Office of Government Information Services
Defense Freedom of Information Policy Office
Defense Health Agency Freedom of Information Service Center
Department of the Navy Chief Information Officer
Walter Reed National Military Medical Center Freedom of
Information Act Office
Bureau of Medicine and Surgery Freedom of Information Act Office



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

5720

Ser DNS-36PS/15U107076

24 Aug 15

Sent via email to: (b) (6) @aol.com

Mr. Robert Hammond

(b) (6)

Dear Mr. Hammond:

This is in reference to your Freedom of Information Act (FOIA) request dated July 22, 2015 for "Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to Walter Reed National Military Center (WRNMMC); Personal Reference number FOIA DON 15-I". Your request was received in our office the same day and assigned Case Tracking Number DON-NAVY-2015-007691.

Please find enclosed a copy of our response letter 5720 Ser DNS-36-JP/15U105010 dated 7 Jan 15 addressing your FOIA request.

Questions regarding this response may be directed to our FOIA Service Center at (202) 685-0412 or by email at donfoia-pa@navy.mil.

Sincerely,


ROBIN PATTERSON
Head, DON PA/FOIA Program Office

Enclosure

Copy to:

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Defense Freedom of Information Policy Office
Defense Health Agency Freedom of Information Service Center
Department of the Navy Chief Information Officer
Walter Reed National Military Medical Center Freedom of
Information Act Office
Bureau of Medicine and Surgery Freedom of Information Act Office



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

5720

Ser DNS-36JP/15U105010

7 Jan 15

Sent via email to: (b) (6) @aol.com

Robert Hammond

(b) (6)

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With regard to WRNMMC, please be advised that recent reorganizations and redesignations have made it extremely difficult to determine which offices had administrative control over WRNMMC at which time, and that the specific matter of FOIA authority has been similarly unclear. The FOIA page for the WRNMMC website indicates that WRNMMC FOIA falls under the authority of DON. This is not correct. As of October 1, 2013, WRNMMC FOIA falls under the authority of the Defense Health Agency (DHA). If you have concerns about the service you are receiving from the WRNMMC Requester Service Center, please contact the DHA FOIA Liaison Officer at Defense Freedom of Information Policy Office, ATTN: Ms. Linda S. Thomas, Chief, Freedom of Information Service Center, Defense Health Agency, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042-5101, by phone at (703) 681-7500, or by email at FOIARequests@tma.osd.mil.

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In conclusion, please be advised that DON has no further involvement in this matter - WRNMMC no longer falls under DON for FOIA purposes, and BUMED properly responded to your requests for WRNMMC Annual Report data by referring those requests to WRNMMC. As noted above, if you have concerns about the service you are receiving from the WRNMMC Requester Service Center, please contact the DHA FOIA Liaison Officer.

We apologize for the difficulty you have had in the processing of your requests. Questions regarding this response may be directed to Mr. (b) (6) at (b) (6) or by email at (b) (6) @navy.mil.

Sincerely,



ROBIN PATTERSON
Head, DON PA/FOIA Program Office

Copy to:

Office of Government Information Services
Defense Freedom of Information Policy Office
Defense Health Agency Freedom of Information Service Center
Department of the Navy Chief Information Officer
Walter Reed National Military Medical Center Freedom of
Information Act Office
Bureau of Medicine and Surgery Freedom of Information Act Office

Robert Hammond

(b) (6)

(b) (6)

@aol.com

August 30, 2015

Department of the Navy (DON) via FOIA Online, <https://foiaonline.regulations.gov/> and donfoia-pa@navy.mil

Subject: Appeal of FOIA Request – Records of Hammond Fiscal Year 2013 FOIA Requests
Submitted to Walter Reed National Military Medical Center (WRNMMC)

Requester Personal Reference number: FOIA DON 15-I

Enclosure: (1) My FOIA Request DON #15-I, Records of Hammond Fiscal Year 2013 FOIA Requests
Submitted to Walter Reed National Military Medical Center (WRNMMC), dated July
22, 2015

(2) DON Reply Letter DON 5720, Ser DNS-36PS/ 15U107076 dated 24 Aug 15

References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President
and U.S. General Services Administration of July 2011, "Your Right to Federal
Records"
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA)
Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
(e) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act
(f) Department of Justice Handbook for Agency Annual Freedom of Information Act
Reports
(g) Department of Navy Chief Information Officer memorandum, subject
DEPARTMENT OF NAVY IMPLEMENTATION OF FOIAONLINE dated
December 12, 2013

Dear Sir.

This appeal is submitted under the references above for my FOIA request with the subject as above, seeking records my FY 2013 FOIA requests submitted to WRNMMC contained in any DON system used for tracking FOIA requests. References (a) through (g) apply. Please preserve all responsive or potentially responsive records and records of your searches in your FOIA case file until the statutory date for judicial review has passed (should that be necessary) or in accordance with a NARA approved records schedule, if longer.

DON Automated Systems Used for Tracking FOIA Requests. Reference (g) mandates that, "Effective 1 February 2014, all new and open Department of the Navy (DON) Freedom of Information Act (FOIA) requests will be processed through the FOIAonline tracking and management tool." It further states, "FOIA offices currently using the Naval Sea Systems Command e-FOIA tool and commands that are employing other FOIA tools or methods will continue using their respective

system until 31 January 2014." Other tools may include Microsoft Excel spreadsheets or other tools. Many of the requests submitted to WRNMMC remain open to this day and may have been migrated to FOIAonline; else the records that I am seeking would reside in the Naval Sea Systems Command e-FOIA tool or other FOIA tools referenced in the preceding sentence above. Moreover, many requests were appealed, such that records of those appeals would be contained in DON JAG tracking systems.

My FOIA Request and DON's Non-responsive Reply Thereto.

My FOIA request is at enclosure (1). DON assigned number DON-NAVY-2015-007691, and provided a reply to my request in their letter DON 5720, Ser DNS-36PS/ 15U107076 dated 24 Aug 15 at enclosure (2), which states "Please find enclosed a copy of our response letter 5720 Ser DNS-36 - JP/150105010 dated 7 Jan 15 addressing your FOIA request.

The DON reply is non-responsive providing no records from FOIA tracking systems or tools, but rather providing a completely irrelevant letter dated 7 Jan 15. That letter is clearly not a responsive reply to my FOIA Request DON #15-I, which is the subject of this appeal. Please see below.

The DON letter of 7 Jan 2015 is an unsolicited DON letter related to Navy Bureau of Navy Medicine's BUMED) failure to provide any response for a single FOIA request seeking the WRNMMC FY2012 Annual FOIA Report submission, which is shown in the BUMED and DON FY 2012 Annual FIOA reports as having been submitted through BUMED to DON. BUMED has still not provided a reply to that unrelated FOIA request and it remains open. Moreover, DON letter 5720 Ser DNS-36 - JP/150105010 dated 7 Jan 15, signed by Ms. Patterson, DON FOIA/PA Manager, is misleading and contains factual inaccuracies. I am including my reply to that letter as enclosure (3), both to preserve that replay as a FOIA case record and to include it as background for this appeal and for judicial review, should judicial review of this appeal become necessary. In this way the full record will be available to the public .

Requirement to Forward Misdirected FOIA Requests. DON did not perform a responsive search for the records sought in locations within DON where the records would likely be located. That said, should DON conduct such a search (releasing all responsive records in its possession), and determine that responsive records are located in WRNMMC FOIA tracking systems, DON is required to forward the incident FOIA request to WRNMMC. DOD regulations require that its various component agencies forward misdirected FOIA requests "to the DoD Component or other Federal Agency with the responsibility for the records requested. DoD 5400.7-R.C5.2.7.

Records Sought Under the FOIA. I am seeking records my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests. It is records from DON tracking systems that are potentially used for compiling the Annual FOIA Report submission that I am seeking. The current system is <https://foiaonline.regulations.gov/>, but the records that I am seeking may have been contained in a predecessor system, if they were not brought forward. Note that records released under the FOIA (DON-NAVY-2015-002302) demonstrate that WRNMMC FOIA requests were included in the DON Annual FOIA Report submission. Moreover, many requests

were appealed to DON JAG and would have had to have been included in the DON JAG FY2013 Annual FOIA Report submission. Enclosure (1) is a listing of individual FOIA requests submitted to Walter Reed National Military Medical Center (WRNMMC). It is my understanding that DON/DON JAG maintains one or more automated system(s) database(s) for tracking FOIA requests and FOIA appeals and that each FOIA request that I submitted to WRNMMC and each FOIA request that I appealed should have been recorded in DON automated systems. It is my understanding that such automated tracking systems/database(s) are used in compiling the Annual FOIA Report submission and that subordinate activity requests, such as those that I submitted to WRNMMC would have been entered into such DON-wide tracking systems. The records that I am seeking should be readily available and easily located by FOIA personnel. This is a simple request.

Other agencies have freely released this information for their personnel without charge. Enclosure (1) provides an example of information released for the Defense Health Agency FOIA Officer.

Basis for Appeal.

I am appealing that the Agency Did Not

- (1) conduct a search within DON where responsive records would likely be located (i.e. any DON system/tool used for tracking FOIA requests (as described in the FOIA request and above) and any DON JAG tracking system/tool)), and issue a finding as to whether there are responsive records therein.
- (2) after completing the DON search for responsive records, forward the request "to the DoD Component or other Federal Agency with the responsibility for the records requested (i. e. WRNMMC) for with explicit instructions for further processing as a matter under their cognizance.. See DoD 5400.7-R.C5.2.7.

Appellate Authority Action Requested. I am asking that:

- (1) each element of the basis of my appeal be addressed separately;
- (2) each element of my appeal be sustained;
- (3) my FOIA request be remanded back to for direct reply to me; and,
- (4) I be granted new appellate rights following a subsequent reply.

Thank you in advance.

With my respect,

(b) (6)

Robert Hammond

Robert Hammond

(b) (6)

(b) (6) @aol.com

July 22, 2015

Department of the Navy via FOIA Online, <https://foiaonline.regulations.gov/> and donfoia-pa@navy.mil

Subject: FOIA Request – Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to Walter Reed National Military Medical Center (WRNMMC)

Requester Personal Reference number: FOIA DON 15-I

Enclosure : (1) Listing of Hammond FY 2013 FOIA Requests to WRNMMC
(2) DON JAG final determination letter dated 18 Sep 2015

References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
(e) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act
(f) Department of Justice Handbook for Agency Annual Freedom of Information Act Reports

Dear FOIA Officer,

I am submitting this request under submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deem that any portion of this request must be processed under the Privacy Act, please notify me in writing within the FOIA response timeframe and continue processing under that Act. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information under the applicable Act(s) and notify me of appeal procedures available under the law. Please preserve all responsive or potentially responsive records and records of your searches in your FOIA case file until the statutory date for judicial review has passed (should that be necessary) or in accordance with a NARA approved records schedule, if longer.

Records Sought Under the FOIA. I am seeking records my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests. It is records from DON tracking systems that are potentially used for compiling the Annual FOIA Report submission that I am seeking. The current system is <https://foiaonline.regulations.gov/>, but the records that I am seeking may have been contained in a predecessor system, if they were not brought forward. Note that records released under the FOIA (DON-NAVY-2015-002302) demonstrate that WRNMMC FOIA requests were included in the DON Annual FOIA Report submission. Moreover, many requests

Page 1 of 3

Enclosure (1), page 1 of 5

were appealed to DON JAG and would have had to have been included in the DON JAG FY2013 Annual FOIA Report submission. Enclosure (1) is a listing of individual FOIA requests submitted to Walter Reed National Military Medical Center (WRNMMC). It is my understanding that DON/DON JAG maintains one or more automated system(s) database(s) for tracking FOIA requests and FOIA appeals and that each FOIA request that I submitted to WRNMMC and each FOIA request that I appealed should have been recorded in DON automated systems. It is my understanding that such automated tracking systems/database(s) are used in compiling the Annual FOIA Report submission and that subordinate activity requests, such as those that I submitted to WRNMMC would have been entered into such DON-wide tracking systems. The records that I am seeking should be readily available and easily located by FOIA personnel. This is a simple request.

Requested Format. I am requesting that documents provided as a single PDF file to include: 1) a signed and dated cover letter citing my personally assigned requester control number addressing only this FOIA request; 2) all responsive documents; 3) a copy of this request in your reply. This request letter is an agency record and providing a copy of this request is an integral part of my FOIA request. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in your reply.

Public Interest. There is significant public interest FOIA at this time an in FOIA reporting The requested records concern "the operations or activities of the government." The disclosure is likely to contribute to an understanding of government operations or activities and contribute to an understanding of the subject by the public. This is a simple request.

Agreement to Pay Fees. I agree to pay fees for searching or copying the records up to \$50. If the fees exceed this amount please advise me of the cost. I believe that the records that I am seeking contribute significantly to public understanding of the operations or activities of the Department of Defense. I do not believe that there should be any charge for providing these records, as there is public interest in government operations and procedures. I am a private individual not seeking documents for commercial use, such that the following applies: "No fees may be charged by any DoD Component if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee. With the exception of requesters seeking documents for a commercial use, Components shall provide the first two hours of search time, and the first one hundred pages of duplication without charge." I would note that because I am requesting a PDF file, there should not be a per page copy fee. This is a simple request. All documents should have been consolidated into case files, assigned case tracking numbers (per governing laws, regulations and policies) and included in automated tracking systems. There should not be a fee to the requester for any failure by DON or WRNMMC to properly store all records and retain them in accordance with an approved NARA record schedule. Should you determine that there is a charge for this request, please include the calculation of the charge and along with your determination of the costs of routine collection and processing of the fee. As there is public interest (discussed above), I am requesting a fee waiver.

Some Applicable References.

- Reference (a) states that for requests 'that will require more than ten days for the agency to process, the FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.'

- DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: "Time Limits. "DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response." Please provide me a tracking number for this request.
- Reference (c) states, "DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust."

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

Thank you in advance.

With my respect,

(b) (6)

Robert Hammond

FY2013 FOIA Requests to Walter Reed National Military Medical Center

My Personal Requester CTRL #	Title/Subject	Date Submitted
	Critical Sodium Value [December 23 2011 to December 29,2011] [Never acknowledged]	2/26/2013
	DD form 2870s [Never acknowledged]	2/26/2013
	All Medical Records in WRNMC possession at the time of the FOIA request	3/29/2013
	Critical Sodium Value [December 23 2011 to December 29,2011]	3/29/2013
	Incorrect Title; Subject was All medical records 20120101 - 20120511	5/11/2013
	Incorrect Title; Subject was All medical records January 1, 2012 to May 11, 2013	5/12/2013
	Incorrect Title; Subject was Specific Medical Records - out patient records from January 1, 1997 to November 1,2004; • laboratory reports from January 1, 1997 to November 6, 2001; • colonoscopy records on or about 2007; • emergency room records of December 24,2011 with accompanying consultations and results of treatment/tests.	5/21/2013
	CAPT Henry Medical Record Notes	6/22/2013
	DD Forms 2870	6/22/2013
	Critical Sodium Value WRNMC [current value]	6/23/2013
NNMC #13-01	Pager Numbers LT (b) (6) - # paged, text and who paged	6/23/2013
NNMC #13-02	Access to laboratory values	6/23/2013
NNMC #13-03	1:1 Sitter -name(s) and other identifying information	6/23/2013
WRNMC #13-04	Outpatient Records from December 26,2011 to January 30, 2012, AFRYIE	6/24/2013
WRNMC #13-05	Medical Records May 15,2012 to June 19,2012; Virtual Colonoscopy	6/29/2013
WRNMC #13-06	Medical Records June 20 - July 5, 2013	6/29/2013
WRNMC #13-07	Medical Records March 1,2012 to May 14,2012; (b) (6)	6/29/2013
WRNMC #13-08	Medical Records from March 1, 2007 to May 30,2007; Virtual colonoscopy	6/29/2013
WRNMC #13-09	Outpatient Records from January 1, 1997 to November 1, 2004	6/29/2013
WRNMC #13-10	Laboratory Records from January 1, 1997 to December 31, 2000	6/29/2013
WRNMC #13-11	Records from January 1, 2013 to February 1, 2013	6/29/2013
WRNMC #13-12	Archived Outpatient Records from January 1, 1997 to June 29, 2013	6/29/2013
WRNMC #13-13	Archived Inpatient Records from January 1, 1997 to June 29, 2013	6/29/2013
WRNMC #13-14	Disclosure of Inpatient Records from June 28, 2007 to June 29, 2013	6/29/2013
WRNMC #13-15	Disclosure of Outpatient Records from June 28, 2007 to June, 29, 2013	6/29/2013

FY2013 FOIA Requests to Walter Reed National Military Medical Center

WRNMC #13-16	Retrieval of Archived Inpatient Records from January 1, 1997 to June 29, 2013	6/29/2013
WRNMC #13-17	Retrieval of Archived Outpatient Records from January 1, 1997 to June 29, 2013	6/29/2013
WRNMC #13-18	HIPPA Medical Records Letters Including Corrections Tracking and Status Records to Date	6/29/2013
WRNMC #13-19	Medical Records; Copy of DVD Containing PDF files of records received as of May 14, 2012	6/29/2013
WRNMC #13-20	HIPPA Medical Records Corrections Tracking and Status [Withdrawn 2012 12 02; duplicate]	6/29/2013
WRNMC #13-21	(b) (6) 2LT 6087 Transfer Duty Assignment -no personally identifiable information	7/9/2013
WRNMC #13-22	FOIA Request Tracking and Status -all information related to my requests, including but not limited to your assigned case numbers, dates received, persons to whom the requests were directed, reviews, status.	7/22/2013
WRNMC #13-23	All DD Forms 2870 between 1 January 2012 and 30 15 may 2012	7/22/2013
WRNMC #13-24	Serum Sodium Reference Ranges and Critical High and Low Values	7/22/2013
WRNMC #13-25	Transcript of Voice Mail; (b) (6) 13 June 2012	7/28/2013
WRNMC #13-26	Hyponatremia Acquired During Hospitalization	7/29/2013
WRNMC #13-27	Patient Involuntary Restraint	7/29/7/29
WRNMC #13- 28	AFRIYE Unavailability	8/18/2013
WRNMC #13- 29	(b) (6) 2LT 6087 Unavailability	8/18/2013



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

5720

Ser DNS-36PS/15U107076

24 Aug 15

Sent via email to: (b) (6) @aol.com

Mr. Robert Hammond

(b) (6)

Dear Mr. Hammond:

This is in reference to your Freedom of Information Act (FOIA) request dated July 22, 2015 for "Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to Walter Reed National Military Center (WRNMMC); Personal Reference number FOIA DON 15-I". Your request was received in our office the same day and assigned Case Tracking Number DON-NAVY-2015-007691.

Please find enclosed a copy of our response letter 5720 Ser DNS-36-JP/15U105010 dated 7 Jan 15 addressing your FOIA request.

Questions regarding this response may be directed to our FOIA Service Center at (202) 685-0412 or by email at donfoia-pa@navy.mil.

Sincerely,


FOR ROBIN PATTERSON
Head, DON PA/FOIA Program Office

Enclosure

Copy to:

Office of Government Information Services
Defense Freedom of Information Policy Office
Defense Health Agency Freedom of Information Service Center
Department of the Navy Chief Information Officer
Walter Reed National Military Medical Center Freedom of
Information Act Office
Bureau of Medicine and Surgery Freedom of Information Act Office



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

5720
Ser DNS-36JP/15U105010
7 Jan 15

Sent via email to: (b) (6) @aol.com

Robert Hammond

(b) (6)

Dear Mr. Hammond:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT REQUESTS

This is in reference to a series of Freedom of Information Act (FOIA) requests submitted to Walter Reed National Military Medical Center (WRNMMC) and to the Bureau of Medicine and Surgery (BUMED). You have been in contact with these offices, as well as several offices along their respective chains of command, as well as an attempt to resolve this matter through mediation by the Office of Government Information Services (OGIS).

It is our understanding that your primary concern is the following: you submitted two (or more) FOIA requests to WRNMMC, which were (improperly) closed due to fee considerations. You appealed the response, and the ultimate result was that the fees were waived and your requests were processed. You are concerned not with the processing of those requests, but with the reporting of the disposition of the requests in the FOIA Annual Report. On this understanding, we are exclusively attempting to address your concern about the accuracy of the Annual Report.

Please be advised that the "raw data" you are seeking with regard to the Annual Report submissions, insofar as it addresses your direct concern, would be maintained solely by WRNMMC. Across DON, Annual Report Data is collected and compiled using DD FORM 2564. A blank copy of a DD FORM 2564 is attached. Please note that this form only tracks aggregate numbers, with no ability to infer the disposition of any specific request.

We contacted BUMED on this matter. BUMED advised that, due to unavoidable personnel management considerations, the BUMED FOIA office has been understaffed, which has delayed response to your multiple inquiries. We apologize for this delay. BUMED further advised that your requests had been directed to WRNMMC and that you were advised of this referral. Additionally, BUMED indicated that their offices have no record of a FOIA Annual Report submission from WRNMMC since Fiscal Year 2009.

With regard to WRNMMC, please be advised that recent reorganizations and redesignations have made it extremely difficult to determine which offices had administrative control over WRNMMC at which time, and that the specific matter of FOIA authority has been similarly unclear. The FOIA page for the WRNMMC website indicates that WRNMMC FOIA falls under the authority of DON. This is not correct. As of October 1, 2013, WRNMMC FOIA falls under the authority of the Defense Health Agency (DHA). If you have concerns about the service you are receiving from the WRNMMC Requester Service Center, please contact the DHA FOIA Liaison Officer at Defense Freedom of Information Policy Office, ATTN: Ms. Linda S. Thomas, Chief, Freedom of Information Service Center, Defense Health Agency, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042-5101, by phone at (703) 681-7500, or by email at FOIARequests@tma.osd.mil.

As an additional note, it is important to refer to the Department of Justice Office of Information Policy guidance regarding accurate completion of the Annual Report (copy attached). If your request was closed for a fee-related reason, appealed, remanded, and then processed to completion, it would be proper to report both the closure for the fee-related reason as well as the final disposition following remand ("For reporting purposes, a remanded request should be treated as a new request by the agency and the time spent processing the request should be included in the agency's Annual FOIA Report just as is done for all FOIA requests.")

In conclusion, please be advised that DON has no further involvement in this matter - WRNMMC no longer falls under DON for FOIA purposes, and BUMED properly responded to your requests for WRNMMC Annual Report data by referring those requests to WRNMMC. As noted above, if you have concerns about the service you are receiving from the WRNMMC Requester Service Center, please contact the DHA FOIA Liaison Officer.

We apologize for the difficulty you have had in the processing of your requests. Questions regarding this response may be directed to Mr. (b) (6) at (b) (6) or by email at (b) (6) @navy.mil.

Sincerely,



ROBIN PATTERSON
Head, DON PA/FOIA Program Office

Copy to:

Office of Government Information Services
Defense Freedom of Information Policy Office
Defense Health Agency Freedom of Information Service Center
Department of the Navy Chief Information Officer
Walter Reed National Military Medical Center Freedom of
Information Act Office
Bureau of Medicine and Surgery Freedom of Information Act Office

Yost, Adam B LCDR OJAG, Code 14

From: Lattin, Grant E CIV OJAG, CODE 14
Sent: Thursday, November 05, 2015 16:17
To: Patterson, Robin L CIV OPNAV, DNS-36
Cc: Foster, Kirk A CAPT AJAG, 01; (b) (6) LT OJAG, Code 14
Subject: FW: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action
Attachments: DON 15-H Appeal final determinations Hammond Fiscal Year 2013 complete..pdf; DON reply to Appeal of DON 15-H- Records of Appeal Final Determ.pdf; Encl2Code14_AnnualReportFY13.pdf

Robin,

(b) (5)

Always glad to discuss. Thx.

Grant Lattin
Director, General Litigation Division
OJAG (Code 14)

(b) (6)

-----Original Message-----

From: (b) (6)@aol.com [mailto:(b) (6)@aol.com]
Sent: Thursday, November 05, 2015 4:10 PM
To: perseverance2013@aol.com; Foster, Kirk A CAPT AJAG, 01; Patterson, Robin L CIV OPNAV, DNS-36; Lattin, Grant E CIV OJAG, CODE 14
Cc: (b) (6) LT OJAG, Code 14; DONFOIA-PA; Julka, Christopher A CIV DON, CIO; DON FOIA Public Liaison
Subject: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

Dear Ms. Patterson, Mr. Lattin and Captain Foster,

LT (b) (6) just released - without redaction - the DON JAG FY 2013 Annual FOIA report that is that is a specific document cited in my appeal that you denied under exemption b(6). DON appellate authority cannot direct the initial determination agency to release such a document without having first granted my appeal. Your initial denial is capricious and arbitrary. Your actions and that of DON are not in line with the FOIA or governing regulations and policies. Please now grant my appeal.

While this approach may have served DON well in the past with regard to judicial review, it is exothermally problematic from the perspective of FOIA compliance and the accuracy of FOIA reporting to the Attorney General.

Please note that my request was submitted (in part) in order to ascertain the "working law" of the Agencies, and to determine whether the Agencies were acting lawfully in carrying out their duties under the FOIA and PA.

Ms. Patterson, it is my understanding that you are charged with FOIA compliance, Please address the matters below and provide me a reply. If you are not the responsible party, please forward this request (with a copy to me) to the responsible party.

Thank you.

With my respect,

Robert Hammond

In a message dated 11/4/2015 6:45:21 A.M. Eastern Standard Time, (b) (6) @aol.com writes:

Dear Ms. Patterson, Mr. Lattin and Captain Foster,

Captain Foster, thank you for your letter of October 27, 2015 (attached) outlining the status of some of my appeals.

First, I am asking that DON act on each appeal and - to the extent that responsive records were not released at the time of my appeals - grant each appeal. DON may not unilaterally release records that it knows are the subject of FOIA requests under appeal in order to avoid acting on and granting my just appeals. Moreover, in cases where I have appealed that the Agency did not respond within 20 working days to my FOIA requests, DON must grant my appeals. Releasing records after an appeal has been filed for requests where the statutory time has significantly been exceed does not render an appeal moot. In reviewing the Department of Justice Handbook for Agency Annual Freedom of Information Act Reports, "Disposition of FIOA Requests" at page 20, "moot" is not an appropriate category for denying a request or an appeal. My Requests and Appeals are very specific as to the records that I am seeking and each must be acted upon as of the time they were received.

Second, I am asking Captain Foster for a reconsideration of Appeal DON 2015-009400. I have been advised that I would likely prevail on every element of this appeal upon judicial review, should that become necessary. For example, DON JAG routinely releases the names of it's action officers in it's final determinations and in emails related to them. Also, you upheld redaction of names and contact info in the DON JAG Annual FOIA Report Submission. I pointed to the DON Annual FOIA Report Submission as an example. Neither DON nor any other agency may redact this information on any Annual FOIA Report. Department of Justice requirements state that for each Fiscal Year agencies must: "Post both the open format NIEM-XML and human-readable versions of their Annual FOIA Reports on their websites, and provide the links to OIP for aggregation on the Department's website." See Department of Justice Handbook for Agency Annual Freedom of Information Act Reports. The list goes on (names in email, etc.). I am asking you to sustain every element of my appeal, grant my appeal and remand it back to DON JAG Code 14 to release all responsive records without redaction. Mr. Lattin, upon remand, please release all responsive records.

Third, I received Mr. Lattin's letter of October 26, 2015 granting my appeal of DON 8860. Thank you. I appreciate that. To the extent that the search locates records responsive to DON 9400, please notify Captain Foster.

Once again, I am willing to work with you. However, I believe that DON must be accountable for improper FOIA request denials, which simply means that you must grant my just appeals and report disposition correctly in your Annual FOIA Reports. As I believe that Ms. Patterson is ultimately accountable for those reports. I am asking for your reply regarding my comments regarding FOIA reporting.

As I said in my earlier email, there are many, many avenues for addressing concerns about perceived improper FIOA processing and reporting to the Attorney General of the United States and, in turn, to Congress. I would sincerely like to avoid additional FOIA requests, additional burden and additional expense for all parties.

Thank you for your consideration of my requests.

With my respect,

Robert Hammond

In a message dated 11/1/2015 6:59:38 A.M. Eastern Standard Time, (b) (6) @aol.com writes:

Dear Ms. Patterson, Mr. Lattin and Captain Foster.

I see from FOIAonline that this appeal is still under evaluation. That is good. I hope that you will carefully review the work of your action officers and sustain my appeal.

My sole desire, as pertains to Navy, is for thorough searches to be done and for all records sought in my FOIA requests to be released without improper redaction. I have been advised that, should judicial review become necessary, I would likely prevail in every element of my appeals, whereupon I will be seeking to recover legal fees and other expenses. I sincerely hope that this can be avoided. Please careful review any of my appeals and FOIA requests that may be assigned to your offices.

Please also note that - while it is not my desire to do so - there are other actions that I may take regarding the handling of my FOIA requests and appeals, should I feel that the process is not fair and proper going forward. I would like to work with you. Please let me know if there is anything that you need from me.

Thank you.

With my respect.

Robert Hammond

In a message dated 10/17/2015 8:13:51 P.M. Eastern Daylight Time, (b) (6) @aol.com writes:

Captain Foster and DONFOIA-PA@navy.mil <mailto:DONFOIA-PA@navy.mil>

This is in response to Captain Foster's letter 2570, Ser 10/045 dated October 8, 2015 but post marked October 15, 2015 addressing my appeal with DON tracking number 2015-009400. I have attached that letter for everyone's convenience.

For Captain Foster,

First, you failed to advise me of my right to seek judicial review as required by the FOIA and governing regulations and policies. Please provide me a proper letter of your final determination.

Next you suggest that you are "directing Code 14 to release additional documents to you.

Specifically, I am directing them to conduct a search for all records received from you in

FY2013, all records dealing with your appeals as they relate to the FY2013 annual FOIA

report (which was released to you in the original response to your request), and a copy of

all Code 14 correspondence to you regarding these FY2013 appeals in their possession." Please note that all of these records are already the subject of other FOIA requests under appeal and these records must be addressed by acting on and sustaining those separate appeals.

For DONFOIA-PA@navy.mil <mailto:DONFOIA-PA@navy.mil> ,

Please immediately act on my separate appeals shown below that are directly related to documents cited above in Captain Foster's letter:

1. Request DON-NAVY-2015-007691, Appealed as DON-NAVY-2015-008860 on 30-Aug-15, subject: Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to Walter Reed National Military Medical Center (WRNMMC)

2. Request DON-NAVY-2015-0090, Appealed as DON-NAVY-2016-000208 on 10/9/2015, subject: Records of Fiscal Year 2013 FOIA Appeals Cited in DON JAG final determination letter dated 18 Sep 2015

3. Request DON-NAVY-2015-008546
<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=y9XgYDan2nLnclKxCOtRsfN3-XAPJAa&requestFunction=View>> . Appealed as DON-NAVY-2016-000207 on 10/9/2015, subject: Records of Appeal of WRNMMC Failure to Correct Medical Records (b) (6) and (b) (6)

4. Request DON-NAVY-2015-007416
<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=mK3aw6zS0Mdptv4rOXUaWuijKohWjNFZ&requestFunction=View>> Appealed as DON-NAVY-2015-009400 on 9/18/2015, subject: Records of Appeal Final Determinations – Hammond Fiscal Year 2013

Note that there are other appeals pending adjudication. Those appeals must be acted in a timely manner as well.

Finally, please provide all responses via PDF. To the extend that responses do not contain my PII, please provide them by return email. In this way there will be no disagreement about what is being provided and when as related to my appeal rights and to your Annual FOIA report. You may securely redact my PII (if any) and return replies by email.

Thank you,

With my respect,

Robert Hammond

Yost, Adam B LCDR OJAG, Code 14

From: Lattin, Grant E CIV OJAG, CODE 14
Sent: Friday, November 06, 2015 8:33
To: (b) (6) LT OJAG, Code 14
Cc: Foster, Kirk A CAPT AJAG, 01
Subject: FW: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action
Attachments: DON 15-H Appeal final determinations Hammond Fiscal Year 2013 complete..pdf; DON reply to Appeal of DON 15-H- Records of Appeal Final Determin.pdf; Encl2Code14_AnnualReportFY13.pdf

(b)
(6)

Please include this email as you draft CAPT Foster's proposed response to prior email. Let's discuss.

Grant Lattin
Director, General Litigation Division
OJAG (Code 14)

(b) (6)

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Thursday, November 05, 2015 4:10 PM
To: (b) (6) @aol.com; Foster, Kirk A CAPT AJAG, 01; Patterson, Robin L CIV OPNAV, DNS-36; Lattin, Grant E CIV OJAG, CODE 14
Cc: (b) (6) LT OJAG, Code 14; DONFOIA-PA; Julka, Christopher A CIV DON, CIO; DON FOIA Public Liaison
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Next you suggest that you are "directing Code 14 to release additional documents to you.

Specifically, I am directing them to conduct a search for all records received from you in

FY2013, all records dealing with your appeals as they relate to the FY2013 annual FOIA

report (which was released to you in the original response to your request), and a copy of

all Code 14 correspondence to you regarding these FY2013 appeals in their possession." Please note that all of these records are already the subject of other FOIA requests under appeal and these records must be addressed by acting on and sustaining those separate appeals.

For DONFOIA-PA@navy.mil <mailto:DONFOIA-PA@navy.mil> ,

Please immediately act on my separate appeals shown below that are directly related to documents cited above in Captain Foster's letter:

1. Request DON-NAVY-2015-007691, Appealed as DON-NAVY-2015-008860 on 30-Aug-15, subject: Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to Walter Reed National Military Medical Center (WRNMMC)

2. Request DON-NAVY-2015-0090, Appealed as DON-NAVY-2016-000208 on 10/9/2015, subject: Records of Fiscal Year 2013 FOIA Appeals Cited in DON JAG final determination letter dated 18 Sep 2015

3. Request DON-NAVY-2015-008546
<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=y9XgYDan2nLnclKnxCOtRsfN3-XAPJAa&requestFunction=View>> . Appealed as DON-NAVY-2016-000207 on 10/9/2015, subject: Records of Appeal of WRNMMC Failure to Correct Medical Records (b) (6) and (b) (6)

4. Request DON-NAVY-2015-007416
<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=mK3aw6zS0Mdptv4rOXUaWuijKohWjNFZ&requestFunction=View>> Appealed as DON-NAVY-2015-009400 on 9/18/2015, subject: Records of Appeal Final Determinations – Hammond Fiscal Year 2013

Note that there are other appeals pending adjudication. Those appeals must be acted in a timely manner as well.

Finally, please provide all responses via PDF. To the extent that responses do not contain my PII, please provide them by return email. In this way there will be no disagreement about what is being provided and when as related to my appeal rights and to your Annual FOIA report. You may securely redact my PII (if any) and return replies by email.

Thank you,

With my respect,

Robert Hammond

Yost, Adam B LCDR OJAG, Code 14

From: Lattin, Grant E CIV OJAG, CODE 14
Sent: Wednesday, November 04, 2015 11:31
To: Foster, Kirk A CAPT AJAG, 01
Subject: RE: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

(b) (5)

-----Original Message-----

From: Foster, Kirk A CAPT AJAG, 01
Sent: Wednesday, November 04, 2015 7:49 AM
To: Lattin, Grant E CIV OJAG, CODE 14; [REDACTED] LT OJAG, Code 14
Subject: FW: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

FYSA

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Wednesday, November 04, 2015 6:45 AM
To: (b) (6) @aol.com; Foster, Kirk A CAPT AJAG, 01; Patterson, Robin L CIV OPNAV, DNS-36; Lattin, Grant E CIV OJAG, CODE 14
Cc: (b) (6) LT OJAG, Code 14; DONFOIA-PA; Julka, Christopher A CIV DON, CIO; DON FOIA Public Liaison
Subject: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

Dear Ms. Patterson, Mr. Lattin and Captain Foster,

Captain Foster, thank you for your letter of October 27, 2015 (attached) outlining the status of some of my appeals.

First, I am asking that DON act on each appeal and - to the extent that responsive records were not released at the time of my appeals - grant each appeal. DON may not unilaterally release records that it knows are the subject of FOIA requests under appeal in order to avoid acting on and granting my just appeals. Moreover, in cases where I have appealed that the Agency did not respond within 20 working days to my FOIA requests, DON must grant my appeals. Releasing records after an appeal has been filed for requests where the statutory time has significantly been exceeded does not render an appeal moot. In reviewing the Department of Justice Handbook for Agency Annual Freedom of Information Act Reports, "Disposition of FOIA Requests" at page 20, "moot" is not an appropriate category for denying a request or an appeal. My Requests and Appeals are very specific as to the records that I am seeking and each must be acted upon as of the time they were received.

Second, I am asking Captain Foster for a reconsideration of Appeal DON 2015-009400. I have been advised that I would likely prevail on every element of this appeal upon judicial review, should that become necessary. For example, DON JAG routinely releases the names of its action officers in its final determinations and in emails related to them. Also, you upheld redaction of names and contact info in the DON JAG Annual FOIA Report Submission. I pointed to the DON Annual FOIA Report Submission as an example. Neither DON nor any other agency may redact this information on any Annual FOIA Report. Department of Justice requirements state that for each Fiscal Year agencies must: "Post both the open format NIEM-XML and human-readable versions of their Annual FOIA Reports on their websites, and provide the links to OIP for aggregation on the Department's website." See Department of Justice Handbook for Agency Annual Freedom of Information Act Reports. The list goes on (names in email, etc.). I am asking you to sustain every element of

my appeal, grant my appeal and remand it back to DON JAG Code 14 to release all responsive records without redaction. Mr. Lattin, upon remand, please release all responsive records.

Third, I received Mr. Lattin's letter of October 26, 2015 granting my appeal of DON 8860. Thank you. I appreciate that. To the extent that the search locates records responsive to DON 9400, please notify Captain Foster.

Once again, I am willing to work with you. However, I believe that DON must be accountable for improper FOIA request denials, which simply means that you must grant my just appeals and report disposition correctly in your Annual FOIA Reports. As I believe that Ms. Patterson is ultimately accountable for those reports. I am asking for your reply regarding my comments regarding FOIA reporting.

As I said in my earlier email, there are many, many avenues for addressing concerns about perceived improper FIOA processing and reporting to the Attorney General of the United States and, in turn, to Congress. I would sincerely like to avoid additional FOIA requests, additional burden and additional expense for all parties.

Thank you for your consideration of my requests.

With my respect,

Robert Hammond

In a message dated 11/1/2015 6:59:38 A.M. Eastern Standard Time, (b) (6) @aol.com writes:

Dear Ms. Patterson, Mr. Lattin and Captain Foster.

I see from FOIAonline that this appeal is still under evaluation. That is good. I hope that you will carefully review the work of your action officers and sustain my appeal.

My sole desire, as pertains to Navy, is for thorough searches to be done and for all records sought in my FOIA requests to be released without improper redaction. I have been advised that, should judicial review become necessary, I would likely prevail in every element of my appeals, whereupon I will be seeking to recover legal fees and other expenses. I sincerely hope that this can be avoided. Please careful review any of my appeals and FOIA requests that may be assigned to your offices.

Please also note that - while it is not my desire to do so - there are other actions that I may take regarding the handling of my FOIA requests and appeals, should I feel that the process is not fair and proper going forward. I would like to work with you. Please let me know if there is anything that you need from me.

Thank you.

With my respect.

Robert Hammond

In a message dated 10/17/2015 8:13:51 P.M. Eastern Daylight Time, (b) (6) @aol.com writes:

Captain Foster and DONFOIA-PA@navy.mil <mailto:DONFOIA-PA@navy.mil>

This is in response to Captain Foster's letter 2570, Ser 10/045 dated October 8, 2015 but post marked October 15, 2015 addressing my appeal with DON tracking number 2015-009400. I have attached that letter for everyone's convenience.

For Captain Foster,

First, you failed to advise me of my right to seek judicial review as required by the FOIA and governing regulations and policies. Please provide me a proper letter of your final determination.

Next you suggest that you are "directing Code 14 to release additional documents to you.

Specifically, I am directing them to conduct a search for all records received from you in

FY2013, all records dealing with your appeals as they relate to the FY2013 annual FOIA

report (which was released to you in the original response to your request), and a copy of

all Code 14 correspondence to you regarding these FY2013 appeals in their possession." Please note that all of these records are already the subject of other FOIA requests under appeal and these records must be addressed by acting on and sustaining those separate appeals.

For DONFOIA-PA@navy.mil <mailto:DONFOIA-PA@navy.mil> ,

Please immediately act on my separate appeals shown below that are directly related to documents cited above in Captain Foster's letter:

1. Request DON-NAVY-2015-007691, Appealed as DON-NAVY-2015-008860 on 30-Aug-15, subject: Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to Walter Reed National Military Medical Center (WRNMMC)

2. Request DON-NAVY-2015-0090, Appealed as DON-NAVY-2016-000208 on 10/9/2015, subject: Records of Fiscal Year 2013 FOIA Appeals Cited in DON JAG final determination letter dated 18 Sep 2015

3. Request DON-NAVY-2015-008546

<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=y9XgYDan2nLnclNxC0tRsfN3-XAPJAa&requestFunction=View>> . Appealed as DON-NAVY-2016-000207 on 10/9/2015, subject: Records of Appeal of WRNMMC Failure to Correct Medical Records (b) (6) and (b) (6)

4. Request DON-NAVY-2015-007416

<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=mK3aw6zS0Mdptv4rOXUaWuijKohWjNFZ&requestFunction=View>> Appealed as DON-NAVY-2015-009400 on 9/18/2015, subject: Records of Appeal Final Determinations – Hammond Fiscal Year 2013

Note that there are other appeals pending adjudication. Those appeals must be acted in a timely manner as well.

Finally, please provide all responses via PDF. To the extend that responses do not contain my PII, please provide them by return email. In this way there will be no disagreement about what is being provided and when as related to my appeal rights and to your Annual FOIA report. You may securely redact my PII (if any) and return replies by email.

Thank you,

With my respect,

Robert Hammond

Yost, Adam B LCDR OJAG, Code 14

From: Lattin, Grant E CIV OJAG, CODE 14
Sent: Friday, November 06, 2015 9:06
To: Foster, Kirk A CAPT AJAG, 01
Cc: (b) (6) LT OJAG, Code 14
Subject: RE: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

(b) (5)



Grant Lattin
Director, General Litigation Division
OJAG (Code 14)

(b) (6)

-----Original Message-----

From: Foster, Kirk A CAPT AJAG, 01
Sent: Friday, November 06, 2015 8:38 AM
To: Lattin, Grant E CIV OJAG, CODE 14; (b) (6) LT OJAG, Code 14
Subject: RE: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

Grant and (b) (6) -

(b) (5)



Thanks! vr Kirk

-----Original Message-----

From: Lattin, Grant E CIV OJAG, CODE 14

Sent: Friday, November 06, 2015 8:33 AM

To: (b) (6) LT OJAG, Code 14

Cc: Foster, Kirk A CAPT AJAG, 01

Subject: FW: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

(b) (6)

Please include this email as you draft CAPT Foster's proposed response to prior email. Let's discuss.

Grant Lattin

Director, General Litigation Division

OJAG (Code 14)

(b) (6)

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]

Sent: Thursday, November 05, 2015 4:10 PM

To: (b) (6) @aol.com; Foster, Kirk A CAPT AJAG, 01; Patterson, Robin L CIV OPNAV, DNS-36; Lattin, Grant E CIV OJAG, CODE 14

Cc: (b) (6) LT OJAG, Code 14; DONFOIA-PA; Julka, Christopher A CIV DON, CIO; DON FOIA Public Liaison

Subject: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

Dear Ms. Patterson, Mr. Lattin and Captain Foster,

LT (b) (6) just released - without redaction - the DON JAG FY 2013 Annual FOIA report that is that is a specific document cited in my appeal that you denied under exemption b(6). DON appellate authority cannot direct the initial determination agency to release such a document without having first granted my appeal. Your initial denial is capricious and arbitrary. Your actions and that of DON are not in line with the FOIA or governing regulations and policies. Please now grant my appeal.

While this approach may have served DON well in the past with regard to judicial review, it is exothermally problematic from the perspective of FOIA compliance and the accuracy of FOIA reporting to the Attorney General.

Please note that my request was submitted (in part) in order to ascertain the "working law" of the Agencies, and to determine whether the Agencies were acting lawfully in carrying out their duties under the FOIA and PA.

Ms. Patterson, it is my understanding that you are charged with FOIA compliance, Please address the matters below and provide me a reply. If you are not the responsible party, please forward this request (with a copy to me) to the responsible party.

Thank you.

With my respect,

Robert Hammond

In a message dated 11/4/2015 6:45:21 A.M. Eastern Standard Time, (b) (6) @aol.com writes:

Dear Ms. Patterson, Mr. Lattin and Captain Foster,

Captain Foster, thank you for your letter of October 27, 2015 (attached) outlining the status of some of my appeals.

First, I am asking that DON act on each appeal and - to the extent that responsive records were not released at the time of my appeals - grant each appeal. DON may not unilaterally release records that it knows are the subject of FOIA requests under appeal in order to avoid acting on and granting my just appeals. Moreover, in cases where I have appealed that the Agency did not respond within 20 working days to my FOIA requests, DON must grant my appeals. Releasing records after an appeal has been filed for requests where the statutory time has significantly been exceeded does not render an appeal moot. In reviewing the Department of Justice Handbook for Agency Annual Freedom of Information Act Reports, "Disposition of FIOA Requests" at page 20, "moot" is not an appropriate category for denying a request or an appeal. My Requests and Appeals are very specific as to the records that I am seeking and each must be acted upon as of the time they were received.

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Captain Foster and DONFOIA-PA@navy.mil <mailto:DONFOIA-PA@navy.mil>

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For Captain Foster,

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For DONFOIA-PA@navy.mil <mailto:DONFOIA-PA@navy.mil> ,

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3. Request DON-NAVY-2015-008546
<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=y9XgYDan2nLncIkNxCOtRsfN3-XAPJAa&requestFunction=View>> . Appealed as DON-NAVY-2016-000207 on 10/9/2015, subject: Records of Appeal of WRNMMC Failure to Correct Medical Records (b) (6) and (b) (6)
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<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=mK3aw6zS0Mdptv4rOXUaWuijKohWjNFZ&requestFunction=View>> Appealed as DON-NAVY-2015-009400 on 9/18/2015, subject: Records of Appeal Final Determinations – Hammond Fiscal Year 2013

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Thank you,

With my respect,

Robert Hammond

Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)

From: Bizzell, Judy J CIV US WRNMMC
Sent: Thursday, January 24, 2013 1:07 PM
To: 'DONFOIA-PA'; Patterson, Robin L CIV OPNAV, DNS-36
Cc: Garcia, Della W. GS BUMED; Bizzell, Judy J CIV US WRNMMC
Subject: FY13 1st FOIA Quarterly Report

FY13 FOIA Quarterly REPORTING M

Quarter: 1st Quarter FY13

Department Name: Walter Reed National Military Medical Center

a) FOIA requests received during quarter: 12

b) FOIA requests processed during quarter: 7

c) FOIA backlog at end of quarter: 4

d) Status of 10 oldest backlogged cases reported on FY12 report -N/A

V/R

Judy J. Bizzell

(b) (6)

-----Original Message-----

From: (b) (6) CIV OPNAV, DNS-36C [mailto:(b) (6)@navy.mil] On Behalf Of DONFOIA-PA
Sent: Thursday, January 24, 2013 12:29 PM
To: Patterson, Robin L CIV OPNAV, DNS-36
Subject: DRAFT-----REMINDER: Action Item due Jan 25th - SOP - FOIA Quarterly Reports and Consolidation process
Importance: High

DON/Marine Corps FOIA Community,

This is a friendly reminder that the FOIA Quarterly Report is rapidly approaching along with the wintery weather conditions. The DON/MC consolidated submission is due to DNS-36 by COB tomorrow.

Echelon I/II's and Marine Corps, please coordinate with your subcomponents (same premise as the FOIA Annual Reporting process), consolidate the component data and provide your consolidated component response in the attached format. You may use the attached format to collect your subcomponents data. If you would like the master loader format to assist you in consolidating your responses, please contact our office thru the DONFOIA-PA mailbox or the service line at 202-685-0412, my FOIA team will expedite your request.

For those DON/MC community members fully vested in the DON/MC (NAVSEA) FOIA tracker and management tool, please find the attached SOP on how you can generate this data within the tool. This SOP provides you with visual step by step instructions.

Please include in your final response the hours and costs to generate your components consolidated report. The DON/MC consolidated submission is due to DNS-36 no later than COB January 25th. Please send your final response to the DONFOIA-PA mailbox.

Respectfully,

Robin Patterson

Head, DON PA/FOIA Office

(b) (6) @navy.mil

FOIA/PA Service Center 202-685-0412

or DONFOIA-PA@NAVY.MIL

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) @aol.com
Sent: Tuesday, December 26, 2017 20:41
To: (b) (6) @mail.mil; Fletcher, Kelly E SES SECNAV, DON CIO; Faison, Clinton F
RADM OPNAV; (b) (6) @mail.mil
Cc: (b) (6) @mail.mil; (b) (6) @dha.mil; (b) (6) @mail.mil;
(b) (6) @med.navy.mil; (b) (6) @mail.mil
Subject: [Non-DoD Source] DOJ Inquiry (DON FOIA Tracking) - DOD Policy/Position Exemption
6. + Exemption 5 + FOIA/PA Reporting
Attachments: FOIA DON 18-AU Case Records DON FOIA Tracking; Hammond FY 2013 FOIA Requests
to Walter Reed w. encl.pdf; Walter Reed 1st Quarter FY13 FOIA Report email to
DONFOIA-Jan242013.pdf

Dear Mr. Hogan, Vice Admiral Faison, Ms. Fletcher, Vice Admiral Bono, With my deep respect, I am providing further documentation regarding a lack of integrity in the FOIA and Privacy Act processes and what I believe to be massive, inaccurate/false reporting to the Attorney General of the United States and Congress involving Walter Reed, Defense Health Agency and Department of Navy (DON), including questions involving intent, potential early collusion and potential ongoing, wide-spread cover up.

Please see my attached FOIA Request seeking case records related to a prior July 22, 2015 FOIA Request to DON seeking, "records of my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests," and my appeal of the Robin Patterson's (DON FOIA/PA Office) initial determination letter. I submitted a similar FOIA request to DHA today.

On August 30, 2015, I appealed Robin Patterson's (DNS-36) 24 Aug 15 initial determination letter. In lieu of releasing responsive records to my FOIA Request demonstrating how Walter Reed's FY 2013 FOIA requests were integrated into Department of Navy's (DON's) electronic tracking systems, Robin Patterson (DON FOIA/PA) released a copy of her own letter dated August 24, 2015 in which Patterson falsely states that BUMED had not received any Annual FOIA Reports from Walter Reed since FY 2009. My August 30, 2015 Appeal containing my July 22, 2015 Request is at Enclosure (1). Regarding Patterson's false statement that BUMED had not received any Annual FOIA Reports from Walter Reed since FY 2009, please see Enclosure (2), which is my separate administrative appeal of my separate FOIA request seeking records of Walter Reed's FY 2012 Annual FOIA Report Submission to BUMED, which DON JAG sustained. Contrary to Patterson's false statement, Walter Reed's FY 2012 FOIA Report was indisputably submitted to BUMED. Walter Reed's FY 2012 Annual FOIA Report submission to BUMED is at pages 49 – 66. The forwarding correspondence from Walter Reed, (presumably Judy J. Bizzell) to BUMED (presumably Della Garcia) is at pages 67-68. DON's FY 2012 FOIA Report Component Listing showing that Walter Reed submitted its FY 2012 FOIA Report through BUMED is at page 33. My reply to Patterson's inaccurate August 24, 2015 letter is at pages 2-47. Bizzell's and Garcia's names and email addresses have been released in the Public Domain numerous times and should not have been redacted. Also, Patterson and Garcia were evidently receiving quarterly FOIA Reports submissions from Bizzell.

As to my August 30, 2015 Appeal, DON JAG did not issue a final determination letter, but instead sent me an email on 11/3/2015 10:20:30 AM simply stating that my Appeal had been remanded back to DON DNS-36 on October 26, 2015. Attached to that email was a November 2, 2015 letter from Robin Patterson stating that, "we redirected your request to WRNMMC." See Enclosure (3).

Walter Reed has never responded. DON has never released a final determination letter addressing records in its custody nor has DON provided any "records of my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests."

I will greatly appreciate your help in getting to the truth of these matters.

With my deep respect,

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>

To: (b) (6) @mail.mil>

Cc: (b) (6) @navy.mil>; (b) (6) @mail.mil>; (b) (6)

(b) (6) @mail.mil>; (b) (6) @dha.mil>; (b) (6)

(b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6)

(b) (6) @med.navy.mil>; (b) (6) @mail.mil>; (b) (6)

(b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6)

(b) (6) @mail.mil>; (b) (6) @mail.mil>

Sent: Tue, Dec 26, 2017 8:20 pm

Subject: Re: DOJ Inquiry (PA Complaint) - DOD Policy/Position Exemption 6. + Exemption 5 + FOIA/PA Reporting

with enclosure.

In a message dated 12/22/2017 6:10:03 AM Eastern Standard Time (b) (6) @aol.com writes:

Robert Hammond

(b) (6)

(b) (6) @aol.com

December 22, 2017

Joo Y. Chung

Director, Directorate of Oversight and Compliance

Office of the Deputy Chief Management Officer

9010 Defense Pentagon

Washington, DC 20301-9010

By Fax to 571-256-4163

Subject: Privacy Act (PA) Complaint - Refusal to Act on FOIA/PA Request; WRNMC 13-28 Afriyie

Reference: (a) Hammond January 13, 2017 ltr to ODCMO, Ms. Chung; Subject: Defense Health Agency (DHA) and Walter Reed Errant/Inaccurate Privacy Act Reporting and Compliance

Enclosure: (1) Walter Reed's (b) (6) email of 8/19/2013 2:11:51 PM in reply to Hammond FOIA Request WRNMC #13-28 - (b) (6) Unavailability, Sent August 18, 2013 5:31 AM
(2) Office of Government Information Services Mediation email 7.20.2016

Dear Ms. Chung,

First, thank you and your staff for your ongoing support regarding both FOIA and Privacy Act compliance. I sincerely appreciate it.

This relates to the ongoing Department of Justice inquiry with regard to intent, potential collusion and potential ongoing, wide-spread cover up in what I believe to be massive inaccurate/false reporting to the Attorney General and Congress involving Walter Reed, Defense Health Agency and Department of Navy.

Please accept and oversee the processing of this Privacy Act Complaint against Walter Reed's "Special Assistant to the Commander, Privacy Compliance Administrator, Department Chief, HIPAA/Privacy Act/Civil Liberties Office," Walter Reed's FOIA Officer Judy. J. Bizzell and former Walter Reed Commanders Rear Admiral (Dr.) Alton L. Stocks, Retired and Major General (Dr.) Jeffrey B. Clark (currently Director, Operations Directorate, Defense Health Agency), Rear Admiral (Dr.) David A. Lane for refusing to act on my August 18, 2013 FOIA/PA Request at enclosure (1), seeking records that Mr. Davidge relied upon in stating that Ms. (b) (6) was unavailable to review an amendment request of my medical records. Enclosure (2) is an email thread from the Office of Government Services (OGIS), who attempted to mediate this case in July 2016, until Walter Reed abruptly withdrew from mediation after being challenged on the truthfulness of statements by Walter Reed's FOIA Officer, Judy J. Bizzell.

I sought mediation of this Request when Ms. Bizzell told OGIS that there were only two FY 2015 FOIA cases outstanding at that time, which is false. I selected this case (from among many) to challenge that false statement, because I had received an email from Walter Reed's (b) (6) seeking information to process this Request and then Walter Reed never processed it and has never reported it in any Annual FOIA Report that I am aware of. See Enclosure (1).

OGIS, reported in an email of 2/18/2016 8:32:08 A.M. Eastern Standard Time that:

Bizzell did not consider your request [WRNMC #13-28] to be a FOIA request as you cited the Privacy Officer had the information needed. For that reason, the WRNMMC FOIA Office did not provide you with a tracking number or a response and informed you that the information was being forwarded to the Privacy Officer for direct response to you.

See enclosure (2), FOIA WRNMC #13-28 – (b) (6) Unavailability, at 5.

As relates to FOIA reporting, in that same email thread Bizzell states— three years later – that I should submit a new FOIA request to DHA. OGIS also reported that Bizzell stated, "If you would like the WRNMMC FOIA Office to process your August 18, 2013 request, resubmit your request to the Defense Health Agency (DHA)." Id., at 5.

Extremely troublingly, Ms. Bizzell advise OGIS that she had spoken to me on the phone about this request, which is false. After being challenged to produce contemporaneous records of this alleged phone conversation that never occurred, Walter Reed abruptly withdrew from mediation.

I believe that Judy is generally just trying to do a good job, but may be left to bear the blame for decisions that may not have been hers.

As to potential premeditated intent and collusion, Walter Reed's Privacy Officer, Davidge revealed his evident intent to exclude my unanswered FOIA/PA requests from Walter Reed's FY 2013 Annual FOIA Report in and an email of 12/13/2013 6:17:57 P.M, when (in responding to my follow up email regarding the status of my 39 FY 2013 FOIA/PA requests submitted under both FOIA and PA), Davidge directed me to declare which requests are FOIA and which are PA, stating, "send all requests to my attention detailing whether or not you are submitting a request under FOIA or the Privacy Act."

DOD policy with respect to FOIA and PA is that, "Only if the records can be denied under both statutes may the Department of Defense withhold the records from the individual." See DoD 5400.11-R, May 14, 2007, C3.1.9.1.2. Please refer to Lattin's final appellate determination letter dated 18 Sep 2013 using contradictory language.

As to reporting, Privacy Act requests actually answered exclusively under PA (after being given the benefit of both Acts) are excluded from the Annual FOIA Report:

"The Annual FOIA Report is designed to capture an agency's FOIA activities and therefore should not include requests for records handled exclusively under the Privacy Act of 1974 (PA)... Agencies should still give incoming requests the potential benefit of access under both the PA and the FOIA." DOJ Handbook for Agency FOIA Annual Reports, at 6 (Scope), which is available at <https://www.justice.gov/oip/page/file/160716/download>

Please also note that at in FY 2013, Navy BUMED and OPNAV DNS-36 were evidently receiving quarterly FOIA Reports from Walter Reed in which the quarterly numbers do not add up to the numbers in Walter Reed's FY 2013 Annual FOIA Report Submission. Walter Reed's 1st FY13 Quarterly Report was sent to 'DONFOIA-PA'; Patterson, Robin L CIV OPNAV, DNS-36 with copy to Garcia, Della W. GS BUMED; Bizzell, Judy J CIV US WRNMMC. See Enclosure (3).

To everyone referenced by name in this correspondence, if I have misspoken on this matter or any other please let me know and I will promptly correct. It is not my intention to wrongfully impugn anyone's reputation, particularly distinguished flag officers, who may not have been aware of these events. However, to the extent that Walter Reed claims that any of my unanswered FOIA/PA Requests is exclusively a PA request and the truth of these matters is not timely resolved, I may continue to submit PA complaints to achieve resolution and affix responsibility.

Thank you again.

With my deep respect,

<about:blank>

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>

To: (b) (6) @mail.mil>

Cc: (b) (6) @navy.mil>; (b) (6) @mail.mil>;

(b) (6) @mail.mil>; (b) (6) @dha.mil>; (b) (6)

<(b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6)

<(b) (6) @mail.mil>; (b) (6) @mail.mil>

Sent: Sun, Dec 17, 2017 7:18 am

Subject: DOJ Inquiry - DOD Policy/Position Exemption 6. + Exemption 5 + FOIA/PA Reporting

Dear Ms. Chung,

Thank you again for all of your help and that of your staff.

Some may not be fully aware that, since 2014, I have been providing Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance documentation regarding a lack of integrity in the FOIA and Privacy Act processes and what I believe to be massive, inaccurate/false reporting to the Attorney General of the United States and Congress involving Walter Reed, Defense Health Agency and Department of Navy.

As you know, following on our correspondence over recent months (NOTAL), Department of Justice opened an inquiry last Thursday.

Jim Hogan was the perfect choice to lead DOD's coordination with DOJ. I trust Jim to get to the truth of the questions involving intent, potential early collusion and potential ongoing, wide-spread cover up.

I had hoped that, through DHA self-reporting and perhaps a DOD audit, DOD would have been able to deliver fully accurate FY 2016 Reports to DOJ and Congress. I had hoped that I would have promptly receive case tracking numbers for all of my open, aged FOIA requests, appeals and PA complaints, and that they would have been answered and properly reported by now.

I had hoped that DOD would have affixed responsibility and taken corrective action to preclude recurrence.

Yet, in my view, these very same problems continued unabated though FY 2017 and continue into FY 2018.

It is unfortunate that your staff may not be getting the full cooperation that they deserve. I hope that changes now.

Some continue to assert, without regard for the potential harmful impact to DOD as a whole and without a perspective of the broader landscape and other venues, that all of these matters can only be addressed through litigation at considerable taxpayer expense.

I disagree. These are matters of integrity and management oversight, which I believe are best addressed within the DOD. That is my preferred approach. I believe in the chain of command.

More to follow.

Thank you again,

With my deep respect,

Robert Hammond

cc: Multiple

=====

In a message dated 12/15/2017 6:45:12 AM Eastern Standard Time, (b) (6) @aol.com writes:

December 15, 2017

Dear Ms. Chung,

First, thank you for the support that Cindy Allard, Jim Hogan and the entire Office of Deputy Chief Management Officer, Directorate of Compliance staff has been providing.

Please see the attached, flawed DON JAG final appellate determination letter dated 18 Sep 2013 combining six administrative appeals.

Among other things, Mr. Lattin incorrectly states "Your appeal is a request for a final determination under the FOIA and the PA." "The requirements of each statute have to be satisfied before the respective documents may be released."

Not only is Lattin's determination contrary to law, it is contrary to DOJ FOIA Reporting and DOD policy. See DOJ Handbook for Agency FOIA Annual Reports, at 6 (Scope). See also DOD Manual 5400.07 DOD Freedom of Information Act (FOIA) Program, January 25, 2017, paragraph 3.9. RELATIONSHIP BETWEEN THE FOIA AND THE PRIVACY ACT; see also, Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records."

The entire appellate determination is flawed from top to bottom. I challenge the adequacy of Walter Reed's searches, the two fee determinations denials and Lattin's exemption (b)(6) denials/redactions related to the

records of the identities of the 1 to 1 nursing sitters and the document "Critical Values Policy dtd October 2011." In short, I challenge every aspect of each of the six appeal final determinations in Lattin's letter.

Moreover, these FOIA/PA denials bring into question the accuracy of DON JAG/Walter Reed FOIA/PA reporting through your office; whether the appeals and requests were reported at all and what role DNS-36 and Lattin may have played in any premeditated Walter Reed errant/false reporting. These matters are worthy of senior leadership attention, which is why I am writing to you.

While I prefer to resolve these matters within DOD, the appeals denials and the underlying FOIA Requests are now ripe for judicial review. Will DOD be taking any action to reverse all of the appellate determinations in Lattin's 18 Sep 2013 letter and produce all responsive records?

I will greatly appreciate knowing the DOD position.

Thank you again for your continued help and support,

With my deep respect,

Robert Hammond

In a message dated 11/27/2017 11:57:01 AM Eastern Standard Time,

(b) (6) @aol.com writes:

Dear Ms. Robin Patterson (Head DON FOIA/PA Office),

Please compare page 7 of Attachment A with pages 48-67 (Walter Reed's FY 2012 Annual FOIA Report Submission to BUMED). Please also review publically available records, including BUMED and DON Annual FOIA Report Submissions.

Please also refer to my email 10/6/2017 3:38:34 PM, entitled "BUMED False Reporting?"

Who at BUMED stated that Walter Reed had not made any Annual FOIA Reports submissions to BUMED since 2009, and why? Della Garcia? CDR (b) (6)? May I ask, if you knew that the statement was inaccurate when you made it and, if so, why did you make it? Who else knew?

As to your comment regarding raw statistical data, please compare your comment at page 6 of Attachment A with Attachment B, which is an email from Bizzell, Judy J CIV US WRNMMC to 'DONFOIA-PA'; Patterson, Robin L CIV OPNAV, DNS-36, cc: Garcia, Della W. GS BUMED, entitled "FY13 1st FOIA Quarterly Report."

Have you advised Vice Admiral Faison and Ms. Fletcher regarding your knowledge of Walter Reed's quarterly FOIA reports submissions versus the numbers in the annual reports while Walter Reed was a DON reporting entity?

Problem with the numbers not adding up?

Mr. Lattin, do you have any comments regarding the last two paragraphs at page 2?

If I have misstated anything in Attachment A or in any other correspondence, please kindly let me know soonest, so that I may correct.

Thank you.

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>
To: (b) (6) @navy.mil>
Cc: (b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6) @dha.mil>; (b) (6) @navy.mil>; (b) (6) @mail.mil>; (b) (6) @navy.mil>

Sent: Fri, Nov 24, 2017 6:28 am

Subject: Robin Patterson, DONFOIA-PA DOD DOodge? Policy/Position, + Exemption 6. + Exemption 5 + FOIA/PA Reporting

Dear Ms. Robin Patterson (DONFOIA-PA, OPNAV DNS-36),
Please see https://www.huffingtonpost.com/2014/01/08/us-navy-email-foia_n_4564068.html.

Would you care to respond to the article, which states that you plot ways to dodge and strategies to thwart legitimate FOIA Requests?

Are those assertions accurate?

Why did Steve Muck apologize on behalf of Navy, instead of you?

Is this an ongoing practice?

Thank you.

Robert Hammond

In a message dated 11/22/2017 8:08:03 PM Eastern Standard Time,

(b) (6) @aol.com writes:

Dear Ms. Allard and Ms. Fletcher,

In a matter which initially predates your current assignments, DOJ ordered DOD to submit quarterly FOIA Reports following a 2012 GAO audit of extensive deficiencies in DOD's FOIA practices, including (among others) deficiencies in assignment of tracking numbers, errant reporting to DOJ, over-use of Exemptions (b)(5) and (b)(6) and other matters. See GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act. See <http://www.gao.gov/assets/600/593169.pdf>.

In the "Department of Defense Chief Freedom of Information Act Officer Report for 2013" at page nine, DOD states:

"The Navy underwent an in-house audit of the FOIA organization at naval activities, and a GAO audit of its overall program. These reviews enabled the Navy to establish a plan for improvement. In fiscal year 2011, the Navy reported a 70% increase in its backlog. In fiscal year 2012, the Navy successfully decreased its backlog by 28%". The Report is available at http://www.dod.mil/pubs/foi/dfoipo/docs/2013_ACFO_Report_FINAL_REPORT.pdf

DOD's statement to DOJ is false.

When I sought such records via FOIA, Robin Patterson (OPNAV-DNS-36), Head of Department of Navy (DON) FOIA/PA Program Office provided an initial determination letter, which stated that no such FOIA Improvement Plan was ever created, even though DOD had falsely reported to DOJ that it had done so.

With my deep respect, I believe that the same errant practices noted in the GAO Report are ongoing today. This poses several questions.

Why would Department of Navy make such a false statement in an official report to DOJ?

Why hasn't this been corrected?

Who is responsible for such false reporting?

To what degree is the alleged, improvement in backlogs, processing times and reduced use of exemptions (b)(5) and (b)(6) due to intentional omission of FOIA Requests and Appeals; to overriding automated systems, which generate quarterly and annual FOIA reports? Do the numbers add up?

I do not want to believe that such false reporting to DOJ is something that DON and DOD condone; tolerate. Will anyone be held accountable? What is the tipping point? When is enough, enough?

With my deep respect and sincere appreciation for your continued support.

Robert Hammond

In a message dated 11/9/2017 9:03:54 AM Eastern Standard Time,

(b) (6) @aol.com writes:

Dear Ms. Allard,

With my deep respect, regarding the general FOIA/PA questions below, are you able to clarify the DCPL position regarding any entity or person who may have submitted or received quarterly FOIA reports, wherein the numbers do not add up to the end of FY Annual FOIA Reports?

I have the same question regarding incomplete PA reports.

Also, I am not aware of any applicable legal protections for agency counsel/legal staff who may have personally participated in these matters and /or participated in covering them up. Are there any?

Would you consider (through your office under your delegated authority (or Mr. Tillotson/Ms. Chung directly)), directing the following entities - Walter Reed, BUMED, DON JAG, DON CIO (with respect to the Walter Reed, BUMED, and DON JAG) and DHA/TMA - to recover from archives/backup servers (as necessary) and preserve all quarterly FOIA and PA Reports submissions records from 2012 forward, together with Annual FOIA Reports submissions records, for potential audit by your office/and or an external entity, as appropriate?

This is more efficient than having to reconstruct such records from source case files, which are required to be maintained.

I am suggesting this, because any destruction of such records in anticipation of audit/other may be problematic in a variety of venues.

Also, for efficiency, would you consider directing such entities to timely identify for your office, via their leadership, any known discrepancies in reporting (which will require notes amending past reports) and any open, unreported FOIA or PA cases that will need to be added to the next reports submissions to the Attorney General and to Congress to make them current and fully accurate?

Thank you. Have a great Veterans Day holiday.

With my deep respect,
Robert Hammond.

-----Original Message-----

From: (b) (6) @aol.com>

To: (b) (6) @mail.mil>

Cc: (b) (6) @mail.mil>;

(b) (6) @dha.mil>; (b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6) @navy.mil>; (b) (6) @mail.mil>

Sent: Thu, Nov 2, 2017 8:09 pm

Subject: DOD Policy/Position, + Exemption 6. + Exemption 5 +

FOIA/PA Reporting

Dear Ms. Allard,

Thank you and your staff for your ongoing support.

With my deep respect, what is the Defense Privacy and Civil Liberties Office (DPCLO) position regarding any agency that assigns duplicate individualized FOIA tracking numbers to completely disparate requests from different parties and then fails to report both requests in their Annual FOIA Reports through your office to the Attorney General and Congress?

Will there be any "top cover" at any level for persons who may have participated in such actions, for those who may have known, or for those who may have participated in covering up such actions?

Will there be any "buffers" at any level?

Chance to "come clean" for those on the bottom rung of the ladder, who may just be trying to do a good job, but may be impeded from doing so?

PA - same questions.

With my deep respect, I am adding key leadership of Walter Reed, DHA, BUMED and DON CIO, and seeking their support, as I believe that significant improvement in the integrity of the FOIA/PA processes and the accuracy of FOIA/PA reporting under their respective commands/reporting chains is warranted.

With my deep respect,

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>

To: (b) (6) @mail.mil>

Cc: (b) (6) @mail.mil>

(b) (6) @mail.mil> (b) (6) @mail.mil>; (b) (6) @dha.mil>

Sent: Sun, Oct 8, 2017 6:59 am

Subject: Re: DOD Policy, Exemption 6. Also, Exemption 5 +

FOIA/PA Reporting

Dear Ms. Allard,

With my deep respect, I am seeking a further policy determination from your office regarding DOD's interpretation of/policy for using the FOIA (b)(6) privacy exemption.

First question, once records have been released through FOIA without redaction, can that very same information later be redacted under the FOIA (b)(6) privacy exemption?

Second question, does it make a difference if that very same information was released through FOIA without redaction both before and after one's request?

Third question, does it make a difference if the redacted information is the email addresses of FOIA Officers, FOIA responders and FOIA Office personnel contained in those emails?

Forth question, does it make a difference if the redacted information is the email addresses of Privacy Officers, Privacy Act Report responders and Privacy Office personnel contained in previously released emails?

Fifth and sixth questions, again, what about multi-function printer, copier, scanner, fax machines? WRT Walter Reed?

In the absence of a policy determination, the DOD agency responses become the DOD position in any further proceedings and venues.

I am concerned that use of the FOIA (b)(6) privacy exemption in such cases may (perhaps) be being used to cover up errant/false reporting to your office for consolidation in reports to the Attorney General of the United States and Congress. I don't know the motive. However, this would be a concern in a variety of venues.

Please also reinforce that all FOIA (b)(6), (b)(5) denials, etc., must be properly reported. That has been problematic. Also, please reinforce that "refusing to respond" to a FOIA request is not an appropriate option/response and that the applicable FOIA exemption, if any, must be cited. Also, what happens if a FOIA Officer may personally know that records exist within the agency/DOD and that FOIA Officer does not search for those records? What would be the consequences in various venues, particularly wrt my concern above? What if records are then deleted? What would DOD's position be? Others?

These are broad questions, applicable across the Department.

Please advise Ms. Chung and (through her) Mr. Tillotson of my concerns.

Still a DOJ/GAO concern. Congress also. Others.
With my deep respect and appreciation,

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>

To: (b) (6) @mail.mil>

Cc: (b) (6) @mail.mil>;

(b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6)

(b) (6) @dha.mil>

Sent: Wed, Oct 4, 2017 3:26 pm

Subject: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA

Reporting

Dear Ms. Allard,

First, thank you for all that you and your staff are doing WRT the integrity of the FOIA/PA processes and the accuracy of reporting. I appreciate it.

With my deep respect, I am seeking a policy determination from your office regarding DOD's interpretation of/policy for using the FOIA (b)(6) privacy exemption.

May I ask:

- Do the names of Agency's have privacy rights?
- Ordinary building names?
- Military Treatment Facility names?
- FOIA Officer names?
- Multi- function printer, copier, scanner, fax machines?

This last rather odd issue came up recently WRT Walter Reed.

As you know, in a GAO audit requested by the Attorney General, DOD was singled out (along with three other federal agencies) regarding concerns over misuse of this exemption, misuse the (b)(5) exemption and errant FOIA tracking and reporting to the Attorney General. For some time, DOJ required DOD to submit quarterly FOIA Reports and ODCMO required additional data.

As you know, I am concerned that many of these same errant practices that DOD promised to fix are still ongoing and that [promised] internal controls to prevent them may be being overridden.

Still a DOJ/GAO concern.

With my deep respect,
Robert Hammond

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) @aol.com
Sent: Tuesday, December 26, 2017 18:23
To: DONFOIA-PA; Patterson, Robin L CIV OPNAV, DNS-36
Cc: (b) (6) @mail.mil; usn.ncr.bumedfchva.mbx.foia-bumed@mail.mil;
(b) (6) @mail.mil; (b) (6) @mail.mil; (b) (6) @navy.mil;
(b) (6) @navy.mil; (b) (6) @navy.mil; Lattin, Grant E CIV OJAG, CODE 14;
Inch, Adam E LCDR OJAG, Code 14; Yost, Adam B LCDR OJAG, Code 14; Julka,
Christopher A CIV DON, CIO; Muck, Steve CIV SECNAV, DON CIO
Subject: [Non-DoD Source] DON 18-AU Fwd: FOIA Request DON-NAVY-2018-002630 Submitted
Attachments: FOIA DON 18-AU Case Records DON FOIA Tracking; Hammond FY 2013 FOIA Requests
to Walter Reed w. encl.pdf

FOIA Request DON 18-AU – FOIA Case Records of Request: DON FOIA Tracking; Hammond FOIA Requests Submitted to
Walter Reed; DON FOIA/PA, DON JAG, BUMED

From: DONFOIA-PA@navy.mil
To: (b) (6) @aol.com
Sent: 12/26/2017 6:15:41 PM Eastern Standard Time
Subject: FOIA Request DON-NAVY-2018-002630 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request
<<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2817816ce>> . Request
information is as follows:

- * Tracking Number: DON-NAVY-2018-002630
- * Requester Name: robert hammond
- * Date Submitted: 12/26/2017
- * Request Status: Submitted
- * Description: FOIA Request DON 18-AU – FOIA Case Records of Request: Hammond FOIA Requests

Submitted to Walter Reed; DON FOIA/PA, DON JAG, BUMED ***This Request will be timely for Judicial Review in twenty
working days*** RECORDS SOUGHT VIA FOIA. I am respectfully seeking: 1. All records of any kind in the possession of
BUMED, DON FOIA/PA Office, DON JAG or DON Public Liaison Office related to my subject FOIA Request and Appeal at
Enclosure (1) (seeking "records of my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated
system used for tracking FOIA requests") from the time that my FOIA Request was submitted on July 22, 2015 to
present. 2. Such records would include but not be limited to: a. All records in DON FOIA/PA FOIA case file and DON JAG
appeal file (which should contain all records related to my Request). b. Any communications by email, fax or in any other
format related to my FOIA Request at Enclosure (1) the appeal thereof or any subsequent proceedings between any of

the following parties: 1) Walter Reed Privacy Officer, Joseph E. Davidge; 2) Walter Reed's FOIA Officer, Judy Bizzell; 3) OPNAV DNS-36; 4) DON FOA/PA; 5) Robin Patterson (DON FOIA/PA); 6) DON CIO; 7) DON JAG; 8) Julka, Christopher A CIV DON, CIO; 9) DON FOIA Public Liaison; 10) Garcia, Della, BUMED; 11) (b) (6); 12) DONFOIA-PA; 13) BUMED.FOIA@med.navy.mil; 14) Muck, Steve CIV SECNAV, DON; 15) (b) (6)@navy.mil; 16) Defense Health Agency; 17) (b) (6) (DHA); 18) (b) (6) (DHA); 19) Me (Robert Hammond). c. Any records of forwarding my FOIA Request or Appeals and any responses thereto. d. Correspondence route sheets. e. Internal notes. f. Action Officer notes. 3. Any final determination letter issued by DON JAG. 4. Any letter referring or redirecting my FOIA Request or Appeal from DON DNS-36 to Walter Reed. 5. Any and all records relied upon in making the statement in Patterson's 7 Jan 15



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1322 PATTERSON AVENUE SE SUITE 3000
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:
5720
Ser 01/049
October 27, 2015

Mr. Robert Hammond

(b) (6)

SUBJECT: E-MAILS REGARDING FREEDOM OF INFORMATION ACT (FOIA)
APPEALS DON-NAVY 2015-009400 AND DON-NAVY-2015-008860

This responds to your e-mails sent to myself and LT (b) (6) on October 17, 2015. Your e-mails concern the FOIA appeal I adjudicated, 2015-009400, and another FOIA appeal recently adjudicated by Code 14, 2015-008860. While there is no obligation for the Department of the Navy to respond because your e-mails do not constitute a new appeal or request reconsideration, I nevertheless wanted to address your concerns, point by point, to assure you that your FOIA appeals are being handled properly.

Your e-mail concern	My response
Your e-mail states I failed to inform you of your right to judicial review and that I should supply you with a proper letter of my final determination.	The letter dated October 8, 2015, 5720 Ser 01/045, represents my final determination. You were informed of your right to seek judicial review on page 4 of that determination ("You may seek judicial review of this decision.")
Your e-mail states that the records I am asking Code 14 to release are the subject of additional FOIA appeals.	My office (AJAG for Civil Law) received two other appeals from you regarding records you requested from Code 14. To the extent you've already received those records, your appeal will be moot. Notwithstanding, I will address any pending appeals or future appeals you submit, provided they have not previously been adjudicated.
In your e-mail to LT (b) (6) you state that it was inappropriate for Code 14 to act as adjudicating authority for your appeal of a request denied by the Chief of Naval Operations, appeal number DON-NAVY-2015-008860, and suggest my office should have been the appellate authority.	Generally, Code 14 handles all appeals for the Department of the Navy other than those delegated to the General Counsel of the Navy. However, when someone makes an initial request for documents that Code 14 owns, and Code 14 releases or withholds those documents, those appeals

5720
Ser 01/049
October 27, 2015

	are handled by me (instead of Code 14) to ensure fairness to the FOIA requester. While I have every faith in Code 14 to fairly adjudicate all appeals, I handle any appeals in which Code 14 would review their own release of documents when that release is challenged to prevent a conflict of interest. This does not mean Code 14 has a conflict of interest for every appeal they handle, because in almost every case, Code 14 reviews the decisions of different commands whether to release or withhold documents. It is only in those unique circumstances where Code 14 would be required to review their own release of documents that I act as the appellate authority.
Your e-mail to LT (b) (6) asks if Code 14 participated in the initial determination, internal records search, or will participate on remand for request DON-NAVY-2015-007691, appeal number DON-NAVY-2015-008860	Your initial request, 007691, was made to the Chief of Naval Operations' FOIA office, DNS-36. You were e-mailed a letter from that office on August 24, 2015, 5720 Ser DNS-36PS/15U107076, signed by Ms. Robin Patterson, an employee of DNS-36. Code 14 was not involved in that decision, the search, nor will it participate on remand. Code 14 simply acted as the appellate authority that adjudicated the appeal you submitted.

In your e-mail, you also cite four separate appeals that you claim are still pending. Below is a response to all four with their current status.

Appeal Cited	Status
DON-NAVY-2015-008860, from original request DON-NAVY-2015-007691	This appeal has been adjudicated and a letter from Code 14, 5720 Ser 14/020, was signed on October 26, 2015 and mailed the following day.
DON-NAVY-2016-00208, from original request DON-NAVY-2015-009400 (misabeled in the e-mail as 0090)	This appeal was received on October 9, 2015 and will be reviewed by my office as your original request involved records requested from Code 14.

5720
Ser 01/049
October 27, 2015

DON-NAVY-2016-00207, from original request DON-NAVY-2015-008546	This appeal was received on October 15, 2015 and will be reviewed by my office as your original request involved records requested from Code 14.
DON-NAVY-2015-9400, from original request DON-NAVY-2015-007416	This appeal was already adjudicated in my letter to you of October 8, 2015, 5720 Ser 01/045.

I hope this clarifies the concerns raised in your e-mails. Your e-mails did not present new FOIA appeals or requests, and to the extent you were requesting a reconsideration, that request is denied. While I decided to respond to your e-mails with a formal letter, be advised that agencies have no obligation to respond to e-mails or questions. Federal courts have repeatedly held that agencies are not required to answer questions under the FOIA, but simply to provide documents.

Please be advised, you have the opportunity to seek judicial review of my FOIA appeal decision dated October 8, 2015 or any other final FOIA appeal decision made by the Department of the Navy.

Sincerely,



K. A. FOSTER
Captain, Judge Advocate General's Corps
United States Navy
Assistant Judge Advocate General (Civil
Law)

Copy to:
OJAG Code 14
DNS-36

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) @aol.com
Sent: Wednesday, November 04, 2015 6:45
To: (b) (6) @aol.com; Foster, Kirk A CAPT AJAG, 01; Patterson, Robin L CIV OPNAV, DNS-36; Lattin, Grant E CIV OJAG, CODE 14
Cc: (b) (6) LT OJAG, Code 14; DONFOIA-PA; Julka, Christopher A CIV DON, CIO; DON FOIA Public Liaison
Subject: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action
Attachments: DON Reply to open FOIA Appeals dated 2015 10 27.pdf

Dear Ms. Patterson, Mr. Lattin and Captain Foster,

Captain Foster, thank you for your letter of October 27, 2015 (attached) outlining the status of some of my appeals.

First, I am asking that DON act on each appeal and - to the extent that responsive records were not released at the time of my appeals - grant each appeal. DON may not unilaterally release records that it knows are the subject of FOIA requests under appeal in order to avoid acting on and granting my just appeals. Moreover, in cases where I have appealed that the Agency did not respond within 20 working days to my FOIA requests, DON must grant my appeals. Releasing records after an appeal has been filed for requests where the statutory time has significantly been exceeded does not render an appeal moot. In reviewing the Department of Justice Handbook for Agency Annual Freedom of Information Act Reports, "Disposition of FIOA Requests" at page 20, "moot" is not an appropriate category for denying a request or an appeal. My Requests and Appeals are very specific as to the records that I am seeking and each must be acted upon as of the time they were received.

Second, I am asking Captain Foster for a reconsideration of Appeal DON 2015-009400. I have been advised that I would likely prevail on every element of this appeal upon judicial review, should that become necessary. For example, DON JAG routinely releases the names of its action officers in its final determinations and in emails related to them. Also, you upheld redaction of names and contact info in the DON JAG Annual FOIA Report Submission. I pointed to the DON Annual FOIA Report Submission as an example. Neither DON nor any other agency may redact this information on any Annual FOIA Report. Department of Justice requirements state that for each Fiscal Year agencies must: "Post both the open format NIEM-XML and human-readable versions of their Annual FOIA Reports on their websites, and provide the links to OIP for aggregation on the Department's website." See Department of Justice Handbook for Agency Annual Freedom of Information Act Reports. The list goes on (names in email, etc.). I am asking you to sustain every element of my appeal, grant my appeal and remand it back to DON JAG Code 14 to release all responsive records without redaction. Mr. Lattin, upon remand, please release all responsive records.

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Once again, I am willing to work with you. However, I believe that DON must be accountable for improper FOIA request denials, which simply means that you must grant my just appeals and report disposition correctly in your Annual FOIA Reports. As I believe that Ms. Patterson is ultimately accountable for those reports. I am asking for your reply regarding my comments regarding FOIA reporting.

As I said in my earlier email, there are many, many avenues for addressing concerns about perceived improper FIOA processing and reporting to the Attorney General of the United States and, in turn, to Congress. I would sincerely like to avoid additional FOIA requests, additional burden and additional expense for all parties.

Thank you for your consideration of my requests.

With my respect,

Robert Hammond

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Thank you.

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Robert Hammond

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Captain Foster and DONFOIA-PA@navy.mil <mailto:DONFOIA-PA@navy.mil>

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For Captain Foster,

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Next you suggest that you are "directing Code 14 to release additional documents to you.

Specifically, I am directing them to conduct a search for all records received from you in

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report (which was released to you in the original response to your request), and a copy of

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<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=y9XgYDan2nLncIkNxCOtRsfN3-XAPJAa&requestFunction=View>> . Appealed as DON-NAVY-2016-000207 on 10/9/2015, subject: Records of Appeal of WRNMMC Failure to Correct Medical Records (b) (6) and (b) (6)

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<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=mK3aw6zSOMdptv4rOXUaWuijKohWjNFZ&requestFunction=View>> Appealed as DON-NAVY-2015-009400 on 9/18/2015, subject: Records of Appeal Final Determinations – Hammond Fiscal Year 2013

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Finally, please provide all responses via PDF. To the extent that responses do not contain my PII, please provide them by return email. In this way there will be no disagreement about what is being provided and when as related to my appeal rights and to your Annual FOIA report. You may securely redact my PII (if any) and return replies by email.

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Robert Hammond

Yost, Adam B LCDR OJAG, Code 14

From: Foster, Kirk A CAPT AJAG, 01
Sent: Monday, November 02, 2015 8:13
To: Lattin, Grant E CIV OJAG, CODE 14; (b) (6) LT OJAG, Code 14
Cc: (b) (6) LCDR OJAG, CODE 11
Subject: FW: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

FY record keeping.

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Sunday, November 01, 2015 7:00 AM
To: Foster, Kirk A CAPT AJAG, 01; Patterson, Robin L CIV OPNAV, DNS-36; Lattin, Grant E CIV OJAG, CODE 14
Cc: (b) (6) LT OJAG, Code 14; DONFOIA-PA; Julka, Christopher A CIV DON, CIO; DON FOIA Public Liaison
Subject: Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

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<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=mK3aw6zS0Mdptv4rOXUaWuijKohWjNFZ&requestFunction=View>> Appealed as DON-NAVY-2015-009400 on 9/18/2015, subject: Records of Appeal Final Determinations – Hammond Fiscal Year 2013

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Thank you,

With my respect,

Robert Hammond

Yost, Adam B LCDR OJAG, Code 14

From: Foster, Kirk A CAPT AJAG, 01
Sent: Friday, November 06, 2015 9:08
To: Lattin, Grant E CIV OJAG, CODE 14
Cc: (b) (6) LT OJAG, Code 14
Subject: RE: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

Thanks, Grant. (b) (5)

Vr Kirk

-----Original Message-----

From: Lattin, Grant E CIV OJAG, CODE 14
Sent: Friday, November 06, 2015 9:06 AM
To: Foster, Kirk A CAPT AJAG, 01
Cc: (b) (6) LT OJAG, Code 14
Subject: RE: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

(b) (5)



Grant Lattin
Director, General Litigation Division
OJAG (Code 14)

(b) (6)

-----Original Message-----

From: Foster, Kirk A CAPT AJAG, 01
Sent: Friday, November 06, 2015 8:38 AM
To: Lattin, Grant E CIV OJAG, CODE 14; (b) (6) LT OJAG, Code 14

Subject: RE: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

Grant and (b) --

(b) (5)

Thanks! vr Kirk

-----Original Message-----

From: Lattin, Grant E CIV OJAG, CODE 14

Sent: Friday, November 06, 2015 8:33 AM

To: (b) (6) LT OJAG, Code 14

Cc: Foster, Kirk A CAPT AJAG, 01

Subject: FW: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

(b) (6)

Please include this email as you draft CAPT Foster's proposed response to prior email. Let's discuss.

Grant Lattin

Director, General Litigation Division

OJAG (Code 14)

(b) (6)

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]

Sent: Thursday, November 05, 2015 4:10 PM

To: (b) (6) @aol.com; Foster, Kirk A CAPT AJAG, 01; Patterson, Robin L CIV OPNAV, DNS-36; Lattin, Grant E CIV OJAG, CODE 14

Cc: (b) (6) LT OJAG, Code 14; DONFOIA-PA; Julka, Christopher A CIV DON, CIO; DON FOIA Public Liaison

Subject: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

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While this approach may have served DON well in the past with regard to judicial review, it is exothermally problematic from the perspective of FOIA compliance and the accuracy of FOIA reporting to the Attorney General.

Please note that my request was submitted (in part) in order to ascertain the "working law" of the Agencies, and to determine whether the Agencies were acting lawfully in carrying out their duties under the FOIA and PA.

Ms. Patterson, it is my understanding that you are charged with FOIA compliance, Please address the matters below and provide me a reply. If you are not the responsible party, please forward this request (with a copy to me) to the responsible party.

Thank you.

With my respect,

Robert Hammond

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Yost, Adam B LCDR OJAG, Code 14

From: Patterson, Robin L CIV OPNAV, DNS-36
Sent: Thursday, November 05, 2015 16:46
To: Lattin, Grant E CIV OJAG, CODE 14
Cc: Foster, Kirk A CAPT AJAG, 01; (b) (6) LT OJAG, Code 14; (b) (6)
(b) (6) CIV OPNAV, DNS-36L
Subject: RE: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

Grant,

(b) (5)

Respectfully,

R. Patterson
Head, SECNAV/CNO FOIA/PA Program Office (DNS-36).
CNO Office of The Director, Navy Staff
Organization and Management Division
FOIA/PA Service Center 202 685-0412 DONFOIA-PA@NAVY.MIL

-----Original Message-----

From: Lattin, Grant E CIV OJAG, CODE 14
Sent: Thursday, November 05, 2015 4:17 PM
To: Patterson, Robin L CIV OPNAV, DNS-36
Cc: Foster, Kirk A CAPT AJAG, 01; (b) (6) LT OJAG, Code 14
Subject: FW: [Non-DoD Source] Re: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

Robin,

(b) (5)

Always glad to discuss. Thx.

Grant Lattin
Director, General Litigation Division
OJAG (Code 14)

(b) (6)

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Dear Ms. Patterson, Mr. Lattin and Captain Foster.

I see from FOIAonline that this appeal is still under evaluation. That is good. I hope that you will carefully review the work of your action officers and sustain my appeal.

My sole desire, as pertains to Navy, is for thorough searches to be done and for all records sought in my FOIA requests to be released without improper redaction. I have been advised that, should judicial review become necessary, I would likely prevail in every element of my appeals, whereupon I will be seeking to recover legal fees and other expenses. I sincerely hope that this can be avoided. Please careful review any of my appeals and FOIA requests that may be assigned to your offices.

Please also note that - while it is not my desire to do so - there are other actions that I may take regarding the handling of my FOIA requests and appeals, should I feel that the process is not fair and proper going forward. I would like to work with you. Please let me know if there is anything that you need from me.

Thank you.

With my respect.

Robert Hammond

writes:

Captain Foster and DONFOIA-PA@navy.mil <mailto:DONFOIA-PA@navy.mil>

This is in response to Captain Foster's letter 2570, Ser 10/045 dated October 8, 2015 but post marked October 15, 2015 addressing my appeal with DON tracking number 2015-009400. I have attached that letter for everyone's convenience.

For Captain Foster,

First, you failed to advise me of my right to seek judicial review as required by the FOIA and governing regulations and policies. Please provide me a proper letter of your final determination.

Next you suggest that you are "directing Code 14 to release additional documents to you.

Specifically, I am directing them to conduct a search for all records received from you in

FY2013, all records dealing with your appeals as they relate to the FY2013 annual FOIA

report (which was released to you in the original response to your request), and a copy of

all Code 14 correspondence to you regarding these FY2013 appeals in their possession." Please note that all of these records are already the subject of other FOIA requests under appeal and these records must be addressed by acting on and sustaining those separate appeals.

For DONFOIA-PA@navy.mil <mailto:DONFOIA-PA@navy.mil> ,

Please immediately act on my separate appeals shown below that are directly related to documents cited above in Captain Foster's letter:

1. Request DON-NAVY-2015-007691, Appealed as DON-NAVY-2015-008860 on 30-Aug-15, subject: Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to Walter Reed National Military Medical Center (WRNMMC)

2. Request DON-NAVY-2015-0090, Appealed as DON-NAVY-2016-000208 on 10/9/2015, subject: Records of Fiscal Year 2013 FOIA Appeals Cited in DON JAG final determination letter dated 18 Sep 2015

3. Request DON-NAVY-2015-008546

<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=y9XgYDan2nLncIkNxC0tRsfn3-XAPJAa&requestFunction=View>> . Appealed as DON-NAVY-2016-000207 on 10/9/2015, subject: Records of Appeal of WRNMMC Failure to Correct Medical Records (b) (6) and (b) (6)

4. Request DON-NAVY-2015-007416

<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=mK3aw6zS0Mdptv4rOXUaWuijKohWjNFZ&requestFunction=View>> Appealed as DON-NAVY-2015-009400 on 9/18/2015, subject: Records of Appeal Final Determinations – Hammond Fiscal Year 2013

Note that there are other appeals pending adjudication. Those appeals must be acted in a timely manner as well.

Finally, please provide all responses via PDF. To the extent that responses do not contain my PII, please provide them by return email. In this way there will be no disagreement about what is being provided and when as related to my appeal rights and to your Annual FOIA report. You may securely redact my PII (if any) and return replies by email.

Thank you,

With my respect,

Robert Hammond



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

5720

Ser DNS-36PS/15U108018

2 Nov 2015

From: Chief of Naval Operations (DNS-36)
To: Walter Reed National Medical Center (FOIA Office)
Subj: FREEDOM OF INFORMATION ACT APPEAL DON-NAVY-008860 OF
ROBERT HAMMOND

Ref: (a) PHONCON CNO (DNS-36PS) (b) (6) WRNMMC J. Bizzell of
29 Oct 15

Encl: (1) DJAG ltr Ser 14/021 of 26 Oct 15
(2) Requester's ltr of 30 Aug 15
(3) CNO ltr Ser DNS-36PS/15U108017 of 2 Nov 15

1. As agreed during reference (a), enclosures (1) and (2) are forwarded for action as a matter under your cognizance and for direct response to the requester. Enclosure (3) is provided for your information.

2. Enclosure (1) was received by this office on 26 Oct 15. Questions concerning this action may be directed to our FOIA Service Center at (202) 685-0412 or donfoia-pa@navy.mil.

Sincerely,

R. PATTERSON
Head, DON PA/FOIA Program Office

Copy to:
Director, General Litigation Division (Code 14)

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) CIV OPNAV, DNS-3
Sent: Thursday, November 05, 2015 11:16
To: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US); (b) (6) @mail.mil
Cc: Strong, Richard R CIV OPNAV, DNS-3; Patterson, Robin L CIV OPNAV, DNS-36; (b) (6) ESQ CIV OPNAV, DNS-36L; (b) (6) LT OJAG, Code 14; Garcia, Della W CIV USN BUMED FCH VA (US) (b) (6) @mail.mil; (b) (6) CIV OPNAV, DNS-3
Subject: RE: FOIA REFERRAL TO WRNMMC RE R. HAMMOND
Attachments: DON-NAVY-2015-008860-REF TO WRNMMC.pdf

Judy,

Resending FOIA Referral please see attached.

r/

(b) (6)

-----Original Message-----

From: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US) [mailto:(b) (6) @mail.mil]
Sent: Tuesday, November 03, 2015 5:48 PM
To: (b) (6) CIV OPNAV, DNS-3; (b) (6) CIV (US)
Cc: (b) (6) CIV OPNAV, DNS-3; Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Subject: RE: FOIA REFERRAL TO WRNMMC RE R. HAMMOND

Hi (b) (6) - I didn't get the email to log into FOIAXpress. Please resend and I will send to (b) (6) in needed. I have added her to this message also for your convenience.

Best Regards,
Judy

-----Original Message-----

From: (b) (6) CIV OPNAV, DNS-3 [mailto:(b) (6) @navy.mil]
Sent: Tuesday, November 03, 2015 11:01 AM
To: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Cc: (b) (6) CIV USN CNO (US)
Subject: FW: FOIA REFERRAL TO WRNMMC RE R. HAMMOND

Judy:

I got a kick back from (b) (6) email. Please ensure you forward her the email to log into FOIA Express.

Hope you having a Great Day.

r/

(b) (6)

From: EEMSG [mailto:EEMSG@UCOL19PA10.eemsg.mail.mil]
Sent: Tuesday, November 03, 2015 10:56 AM
To: (b) (6) CIV OPNAV, DNS-3
Subject: Undeliverable: FOIA REFERRAL TO WRNMMC RE R. HAMMOND

Delivery has failed to these recipients or groups:

(b) (6) @mail.com <mailto:(b) (6) @mail.com>
A problem occurred during the delivery of this message to this e-mail address. Try sending this message again. If the problem continues, please contact your helpdesk.

The following organization rejected your message: [74.208.5.4].

Diagnostic information for administrators:

Generating server: UCOL19PA10.eemsg.mail.mil

(b) (6) @mail.com
[74.208.5.4] #<[74.208.5.4] #5.0.0 smtp; 5.1.0 - Unknown address error
550-'Requested action not taken: mailbox unavailable' (delivery attempts:
0)> #SMTP#

Original message headers:

X-EEMSG-Attachment-filename: DON-NAVY-2015-008860-REF TO WRNMMC.pdf,
smime.p7s
X-IronPort-AV: E=Sophos;i="5.20,239,1444694400";
d="pdf?p7s'?scan'208";a="50351238"
Received: from naeanrfkax32.nmci.navy.mil (HELO
NAEANRFKAX32o.NADSUSEA.NADS.NAVY.MIL) ([205.85.33.246]) by
UCOL19PA10.eemsg.mail.mil with ESMTP; 03 Nov 2015 15:53:56 +0000
X-AuditID: cd5521f5-f79bc6d000000f8e-7e-5638d8907178
Received: from NAEANRFKXH50V.nadsusea.nads.navy.mil (Unknown_Domain
[205.85.33.242]) by NAEANRFKAX32o.NADSUSEA.NADS.NAVY.MIL (Symantec
Messaging
Gateway) with SMTP id CE.64.03982.098D8365; Tue, 3 Nov 2015 10:53:52 -0500
(EST)
From: "(b) (6) CIV OPNAV, DNS-3" <(b) (6) @navy.mil>
To: (b) (6) @mail.com" <(b) (6) @mail.com>
CC: (b) (6) @mail.mil" <(b) (6) @mail.mil>, "Strong,
Richard R CIV OPNAV, DNS-3" <(b) (6) @navy.mil>, (b) (6)

OPNAV, DNS-3" <(b) (6)>@navy.mil>

Subject: FOIA REFERRAL TO WRNMMC RE R. HAMMOND

Thread-Topic: FOIA REFERRAL TO WRNMMC RE R. HAMMOND

Thread-Index: AdEWT8mviiQpFE7YTcKQm4ZozNmcoQ==

Date: Tue, 3 Nov 2015 15:53:43 +0000

Message-ID:

<D659551164FACE48B09C8AEFEDFBB23A1AA494E4@NAEAWNYDXM02V.nadsusea.nads.navy.mil>

Accept-Language: en-US

Content-Language: en-US

X-MS-Has-Attach: yes

X-MS-TNEF-Correlator:

x-originating-ip: [10.28.248.141]

Content-Type: text/plain

MIME-Version: 1.0

Return-Path: (b) (6)>@navy.mil

X-Brightmail-Tracker:

H4slAAAAAAAA+NgFnraIsWRmVeSWpSXmKPExsVyNITxk+6EGxZhBg+3GFpsf/ma2eJ//w9G

ByaPGU9Os3qsv/+eMYApissmJTUnsy1SN8ugSvjx62ITAUh2dW7P1wla2B8Wh7ehcjJ4eE

glnEo0k/mCFsMYkL99azdTfycQgJPGGU+LT1NRNlgk3AVmLL41UsILaIgKPEiu7fjCBFzAL7

GCV2fV0D5HBwCAvoSbT2COLUGEu87FzKDmHrSUyesRdsDouAisSNzm2MIDavQLTEjL1PwRYz

Ai3+fmoNWA2zgLjErSfzmSAOEpf4ePEOG4QtKvHy8T9WCftRysrapcwQN/QySvxuamGFGCoo

cXLmE7BDhYCK1u39yjkBUXgWkrmkzPXMQtIzC+gHZoFQiSILiBMPYm2jYwQrfIS29/OYYaw

/STur3zMAMeDndH9kB3CDpGYe3EmK4RtLTHj10E2TDWmEq+PfmRcwMizilHZz9HVOS/lzdsx

wthlz8/RJTg02NURzAASYZF6vp4+mxghcf11B2PzCqtDjAlcjEo8vDv2s4QJsSaWfVfmHmJU

AZr6aMPqC4xSLHn5ealKlryq5yzChHhTEiurUovy44tKc1KLDzFKc7AoifMmOhiGCQmkJ5ak

ZqemFqQWwWSZODilGhjFr/+NYplV2HuhVH6PJ8uc+2ffPzwsOHnSrXD5z95PDxukb4tfpjWH

9XB09tVnG44vPXTqUIPPlvWxej/W6jqIro/Yb1Y1M/duTfZhrQ+umuiO+d2RQerOlP9e3VRm

4PB/rb61OoM37j7/Va2tEf5vKhjMIZnnhUo9N8ng4fSeNjN1XvecT3+VWlozEg21mluKEwFd
FTIj8wIAAA==

(b) (6) CIV OPNAV, DNS-3

From: (b) (6) CIV OPNAV, DNS-3
Sent: Monday, November 02, 2015 9:25
To: (b) (6) @mail.mil
Cc: Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3 (b) (6)
Subject: (b) (6) CIV OPNAV, DNS-36L
ROBERT HAMMOND FOIA REQUEST
Signed By: (b) (6) @navy.mil

Judy:

I have our response letter drafted for Mr. Hammond and our referral letter to your Agency.

I do have a quick question to ask before I email the referral. I want to make Mr. Hammond's response from Navy is very clear.

Has your office responded to Mr. Hammond's FOIA request of February 26, 2013 for the critical low value of sodium stored in WRNMMC computers in December 2011?

If so, please provide this office with a copy of your response.

Lastly, I am following up with our conversation last week regarding your FOIA website ensuring that Navy gets removed from the "Introduction" as well as the link to our "Navy FOIA home page".

Standing by.....

Most Respectfully,

(b) (6)
Senior PA/FOIA Program Analyst
Team Chief & DON FOIA Requester Service Center
OPNAV/SECNAV Privacy/Freedom of Information Program Office
DNS-36
2000 Navy Pentagon
Washington, DC 20350-2000
PA/FOIA SERVICE CENTER: 202-685-0412
Mailbox: DONFOIA-PA@navy.mil
FAX: 202-685-6580
(b) (6) @navy.mil

Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)

From: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Sent: Friday, March 13, 2015 6:03 PM
To: (b) (6) @aol.com
Subject: FW: Subject: FOIA Request – Critical Communication SOP NO ADMIN 1.17
Attachments: FOIA#15-A(reduced).pdf; 20150313130135666.pdf
Signed By: (b) (6) @us.army.mil

Dear Mr. Hammond:

This responds to your Freedom of Information Act Request (below). Your request has been assigned case #15-15. Please refer to this number when inquiring about this case.

For your request you state: "I requested; "... the numeric value in mEq/L that identifies a critical low sodium value level that is stored in the Walter Reed computers that generate laboratory reports and cause laboratory values to be shown as critical on the laboratory reports/printouts. Specifically, I am looking for the value that would have existed in the computer between December 23, 2011 and December 29, 2011, if that value has since been changed."

With no malice or ill intent, we forwarded you your own information regarding the subject as we believed this was your request. We sent your request back to the Lab and are now forwarding to you the information (attached) and hope this will satisfy your need. There are 2 pages: Page 1 has information redacted that is not responsive to your request and additional information redacted under FOIA using exemption (b)(6). The information redacted using the (b)(6) exemption is personal/private information of individuals that would be an unwarranted invasion of personal privacy if release. FOIA allows for this redaction. Page 2 has no redactions and is released in full.

If you are dissatisfied with the above determination for any reason, you may file an appeal. Such an appeal should be addressed to:

Defense Health Agency - Office of the General Counsel
National Capitol Region Medical Directorate
Attention: Mr. Paul Cygnarowicz
8901 Wisconsin Ave (Building 27)
Bethesda, MD 20889

The appeal must be postmarked within 60 calendar days from the date of this letter, and you should attach this letter with a statement regarding the basis of your appeal. I recommend you annotate both the letter of appeal and envelope with the words "Freedom of Information Act Appeal."

Fees associated with the processing of your request, by this Command, have been waived. If you have any questions or require further assistance, you may contact me at (b) (6) or by email at (b) (6) @civ.mail.mil.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave

Scanned & Sent to Requester

LAB WORK ELEMENT [REDACTED]
LRWE DEFAULT LAB METHOD: SODIUM (WRB-COBAS) 18AUG2014
LAB SECTION: CLINICAL CHEMISTRY

[REDACTED]

[REDACTED]

[REDACTED] (FTA215:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (NNMC) 090101
on 11/23/05 [REDACTED] (_NTY7855:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (NNMC-BAYER) 103105
on 01/31/11 [REDACTED] (FTA4097:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (NNMC-CLINK) 013111
on 09/06/12 [REDACTED] (FTA1096:)
WORK ELEMENT LAB METHOD entry deleted: SODIUM (WRB-COBAS)
24JUNE2012
on 08/16/14 [REDACTED] (FTA215:)

NOT RESPONSIVE TO THE REQUEST

Last 4 lines
of
redaction
due to
(b)(6)
exemption
under the
FOIA

CPT CODE: 84295

-----Break

Lab Method: SODIUM (NNMC-CLINK) 013111

LRMETHOD --

CONT

Site/Specimen: SERUM

Sex: MALE/NO SEX

Select Age Group: (multiple)
Upper Limit

High
ALL

999

Ref. Low

136

Ref. High

145

Panic Low

120

Panic

160

(b) (6) CIV OPNAV, DNS-3

From: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US) - **(b) (6)** @mail.mil>
Sent: Tuesday, November 03, 2015 10:29
To: **(b) (6)** CIV OPNAV, DNS-3
Cc: Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3, **(b) (6)**
(b) (6) ESQ CIV OPNAV, DNS-36L; Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US);
Thomas, Linda S CIV DHA CMD GRP (US); **(b) (6)** CIV (US)
Subject: RE: ROBERT HAMMOND FOIA REQUEST
Attachments: Email from Autostore (138 KB)
Signed By: **(b) (6)** @us.army.mil

Good morning **(b) (6)** - I apologize for the delay - I was out of the office yesterday.

Yes, we answered the requester twice. Once with his own Sodium information from the lab then with the general lab results for that time period. He rejected the first release for his own information as not being what he wanted so the attached is what this office received in response:

Hope this helps

Secondly, I have been in contact with the Web team here and they needed authorization from our PAO to change the website. I have a call into that office now. Awaiting response. Will keep you posted on that.

Have a good day!
Judy

-----Original Message-----

From: **(b) (6)** CIV OPNAV, DNS-3 (mailto:**(b) (6)** @navy.mil]
Sent: Monday, November 02, 2015 9:25 AM
To: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Cc: Patterson, Robin W CIV USN CNO (US); Strong, Richard R CIV (US);
(b) (6) CIV (US)
Subject: ROBERT HAMMOND FOIA REQUEST

Judy:

I have our response letter drafted for Mr. Hammond and our referral letter to your Agency.

I do have a quick question to ask before I email the referral. I want to make Mr. Hammond's response from Navy is very clear.

Has your office responded to Mr. Hammond's FOIA request of February 26, 2013 for the critical low value of sodium stored in WRNMMC computers in December 2011?

If so, please provide this office with a copy of your response.

Lastly, I am following up with our conversation last week regarding your FOIA website ensuring that Navy gets removed from the "Introduction" as well as the link to our "Navy FOIA home page".

Standing by.....

Most Respectfully,

(b) (6)

Senior PA/FOIA Program Analyst
Team Chief & DON FOIA Requester Service Center
OPNAV/SECNAV Privacy/Freedom of Information Program Office
DNS-36
2000 Navy Pentagon
Washington, DC 20350-2000
PA/FOIA SERVICE CENTER: 202-685-0412
Mailbox: DONFOIA-PA@navy.mil
FAX: 202-685-6580

(b) (6) @navy.mil

LT, JAGC, USN

Office of the Judge Advocate General

General Litigation Division (Code 14)

1322 Patterson Avenue, SE, STE 3000

Washington Navy Yard, DC 20374

TEL: (b) (6)

DSN:

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) CIV OPNAV, DNS-3
Sent: Thursday, November 05, 2015 11:10
To: (b) (6) LT OJAG, Code 14; Garcia, Della W CIV USN BUMED FCH VA (US)
Cc: Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3; (b) (6)
(b) (6) ESQ CIV OPNAV, DNS-36L; (b) (6) CIV OPNAV, DNS-3
Subject: RE: Hammond FOIA request from
Attachments: (b) (5)

(b) (5), (b) (6)

Most Respectfully,

(b) (6)

-----Original Message-----

From: (b) (6) LT OJAG, Code 14
Sent: Thursday, November 05, 2015 10:49 AM
To: Garcia, Della W CIV USN BUMED FCH VA (US)
Cc: Patterson, Robin L CIV OPNAV, DNS-36; (b) (6) CIV OPNAV, DNS-3
Subject: RE: Hammond FOIA request from

Della et al,

Just wanted to see how this was proceeding - sorry to bug you but our response will be due in less than a week so we're well short of the usual time our attorneys have to review. Let me know if there's an estimated date for you all's response so I can draft an extension letter if necessary to Mr. Hammond.

V/r,

(b) (6)

-----Original Message-----

From: Garcia, Della W CIV USN BUMED FCH VA (US) [mailto:(b) (6)@mail.mil]
Sent: Friday, October 30, 2015 7:01 AM
To: (b) (6) LT OJAG, Code 14
Cc: Patterson, Robin L CIV OPNAV, DNS-36; (b) (6) CIV OPNAV, DNS-3
Subject: RE: Hammond FOIA request from

Good morning.

I am working with Ms. Patterson and her folks and should have a response to you as quickly as possible. v/r Della

Della W. Garcia
FOIA/PA Paralegal Specialist
Bureau of Medicine and Surgery
Medical-Legal Affairs Office
7700 Arlington Blvd Ste 5124
Falls Church, VA 22042-5124

COMM (b) (6)

(b) (6) @mail.mil

~~FOR OFFICIAL USE ONLY (FOUO) - PRIVACY SENSITIVE~~. Any misuse or unauthorized disclosure may result in both civil and criminal penalties.

-----Original Message-----

From: (b) (6) LT OJAG, Code 14 [mailto:(b) (6) @navy.mil]
Sent: Wednesday, October 28, 2015 5:06 PM
To: Garcia, Della W CIV USN BUMED FCH VA (US)
Cc: Winston, Wendy A CIV USN (US)
Subject: RE: Hammond FOIA request from

Della,

(b) (5)

V/r,

(b) (6)

-----Original Message-----

From: (b) (6) LT OJAG, Code 14
Sent: Tuesday, October 27, 2015 8:42 AM
To: Garcia, Della
Cc: Winston, Wendy A CIV OJAG, CODE 14
Subject: Hammond FOIA request from

(b) (5)

Very respectfully,

(b) (6)

LT, JAGC, USN

Office of the Judge Advocate General

General Litigation Division (Code 14)

1322 Patterson Avenue, SE, STE 3000

Washington Navy Yard, DC 20374

TEL: (b) (6)

DSN

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) CIV OPNAV, DNS-3
Sent: Tuesday, November 03, 2015 10:06
To: Winston, Wendy A CIV OJAG, CODE 14
Cc: (b) (6) LT OJAG, Code 14; Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3; (b) (6) CIV OPNAV, DNS-36L; (b) (6) (b) (6) CIV OPNAV, DNS-3
Subject: RE: FINAL FOIA RESPONSE AND REMAND LETTER ICO MR. ROBERT HAMMOND DON-NAVY-2015-008860

OBE

I located Mr. Hammond's ltr dtd 30 Aug 15

-----Original Message-----

From: (b) (6) CIV OPNAV, DNS-3
Sent: Tuesday, November 03, 2015 8:35 AM
To: Winston, Wendy A CIV OJAG, CODE 14
Cc: (b) (6) LT OJAG, Code 14; Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3; (b) (6) CIV OPNAV, DNS-36L; (b) (6) CIV OPNAV, DNS-3
Subject: FW: FINAL FOIA RESPONSE AND REMAND LETTER ICO MR. ROBERT HAMMOND DON-NAVY-2015-008860

Wendy:

As referenced in your remand letter....
Please provide this office with a copy
of Mr. Robert Hammond's ltr dtd 30 Aug 15

Standing by.....

Most Respectfully,

(b) (6)
Senior PA/FOIA Program Analyst
Team Chief & DON FOIA Requester Service Center
OPNAV/SECNAV Privacy/Freedom of Information Program Office
DNS-36
2000 Navy Pentagon
Washington, DC 20350-2000
PA/FOIA SERVICE CENTER: 202-685-0412
Mailbox: DONFOIA-PA@navy.mil
FAX: 202-685-6580
(b) (6) @navy.mil

-----Original Message-----

From: (b) (6) CIV OPNAV, DNS-36L
Sent: Tuesday, October 27, 2015 11:19 AM
To: Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3
Cc: (b) (6) CIV OPNAV, DNS-3
Subject: FW: FINAL FOIA RESPONSE AND REMAND LETTER ICO MR. ROBERT HAMMOND DON-NAVY-2015-008860

Robin:

As you can see from the attached letter, OJAG has remanded the latest Hammond case back to us. I would like to meet and discuss a way forward regarding this case.

v/r

(b) (6)

-----Original Message-----

From: Winston, Wendy A CIV OJAG, CODE 14
Sent: Tuesday, October 27, 2015 10:39 AM
To: Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3; (b) (6) CIV OPNAV, DNS-36L
Cc: (b) (6) LT OJAG, Code 14
Subject: FINAL FOIA RESPONSE AND REMAND LETTER ICO MR. ROBERT HAMMOND DON-NAVY-2015-008860

Good Morning,

Please see the attached final response and remand letter ICO Mr. Robert Hammond, original request number DON-NAVY-2015-007691.

Thank you and have a great day!

Very respectfully,

Wendy A. Winston
Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Avenue, SE, STE 3000
Washington Navy Yard, DC 20374
TEL: (b) (6)
DSN (b) (6)

Yost, Adam B LCDR OJAG, Code 14

From: foia@erulemaking.net
Sent: Wednesday, October 28, 2015 13:01
To: (b) (6) LT OJAG, Code 14
Subject: FOIA Assignment for Case File Review for Appeal DON-NAVY-2015-008860

You have been assigned to the FOIA task - Case File Review. Additional details for this item are as follows:

- * Assigned By: Wendy A. Winston
- * Tracking Number: DON-NAVY-2015-008860
- * Due Date: 10/28/2015
- * Sent Date: 10/28/2015
- * Requester: robert hammond
- * Appeal Track: Simple
- * Short Description: Case File Review
- * Long Description: N/A

Yost, Adam B LCDR OJAG, Code 14

From: Winston, Wendy A CIV OJAG, CODE 14
Sent: Tuesday, October 27, 2015 10:39
To: Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3; (b) (6)
(b) (6) CIV OPNAV, DNS-36L
Cc: (b) (6) LT OJAG, Code 14
Subject: FINAL FOIA RESPONSE AND REMAND LETTER ICO MR. ROBERT HAMMOND DON-NAVY-2015-008860
Attachments: Hammond 2015-008860 remand.pdf; Hammond 2015-008860 final .pdf

Good Morning,

Please see the attached final response and remand letter ICO Mr. Robert Hammond, original request number DON-NAVY-2015-007691.

Thank you and have a great day!

Very respectfully,

Wendy A. Winston
Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Avenue, SE, STE 3000
Washington Navy Yard, DC 20374
TEL: (b) (6)
DSN (b) (6)

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) LT OJAG, Code 14
Sent: Tuesday, October 27, 2015 9:43
To: (b) (6) LCDR OJAG, CODE 11
Subject: RE: FOIA Letter
Attachments: (b) (5) (b) (6).doc

(b) (5)

V/r,

(b) (6)

-----Original Message-----

From: (b) (6) LCDR OJAG, CODE 11
Sent: Tuesday, October 27, 2015 9:40 AM
To: (b) (6) LT OJAG, Code 14
Subject: FOIA Letter

(b) (6)

(b) (5)

Thank you.

V/R

(b) (6) JAGC, USN
Office of the Judge Advocate General
Code 11 Office: (202) 685-5158; DSN: 325-5158
AJAG 01 Assistant Number: (b) (6)
@navy.mil

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CAUTION: Information contained in this message may be protected by the attorney-client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from this office.


(b) (5)



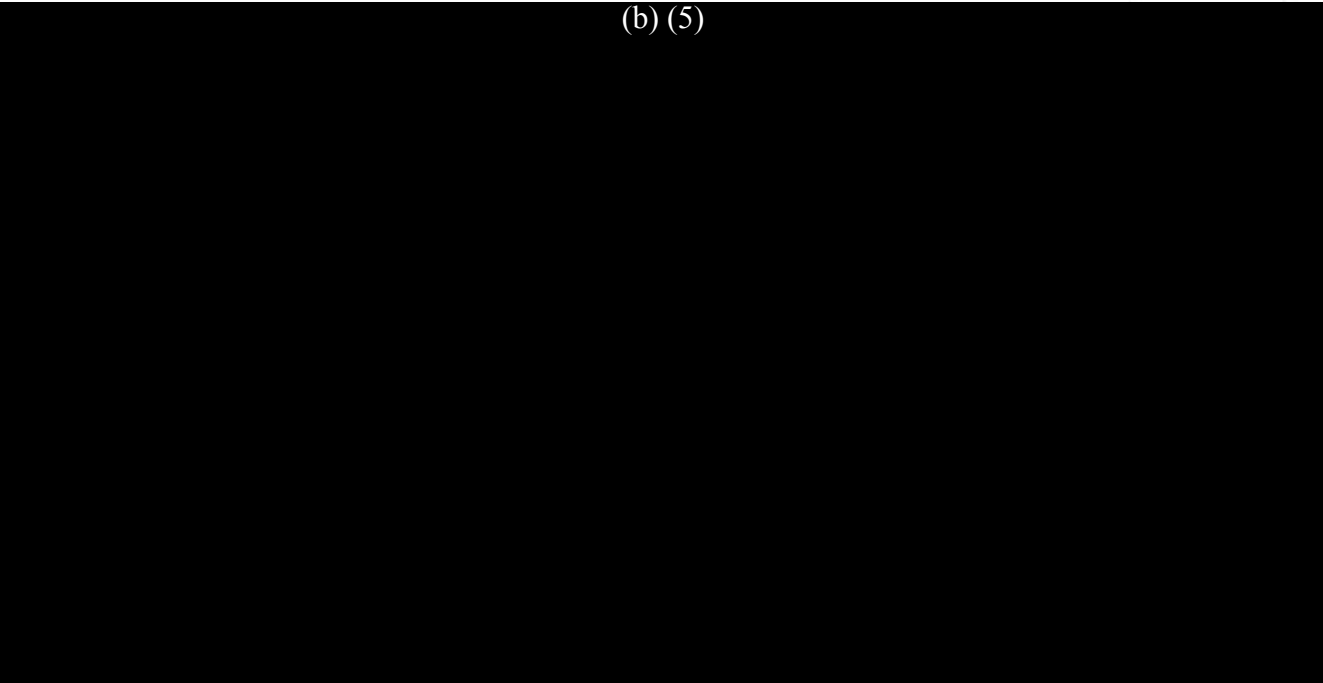
(b) (5)



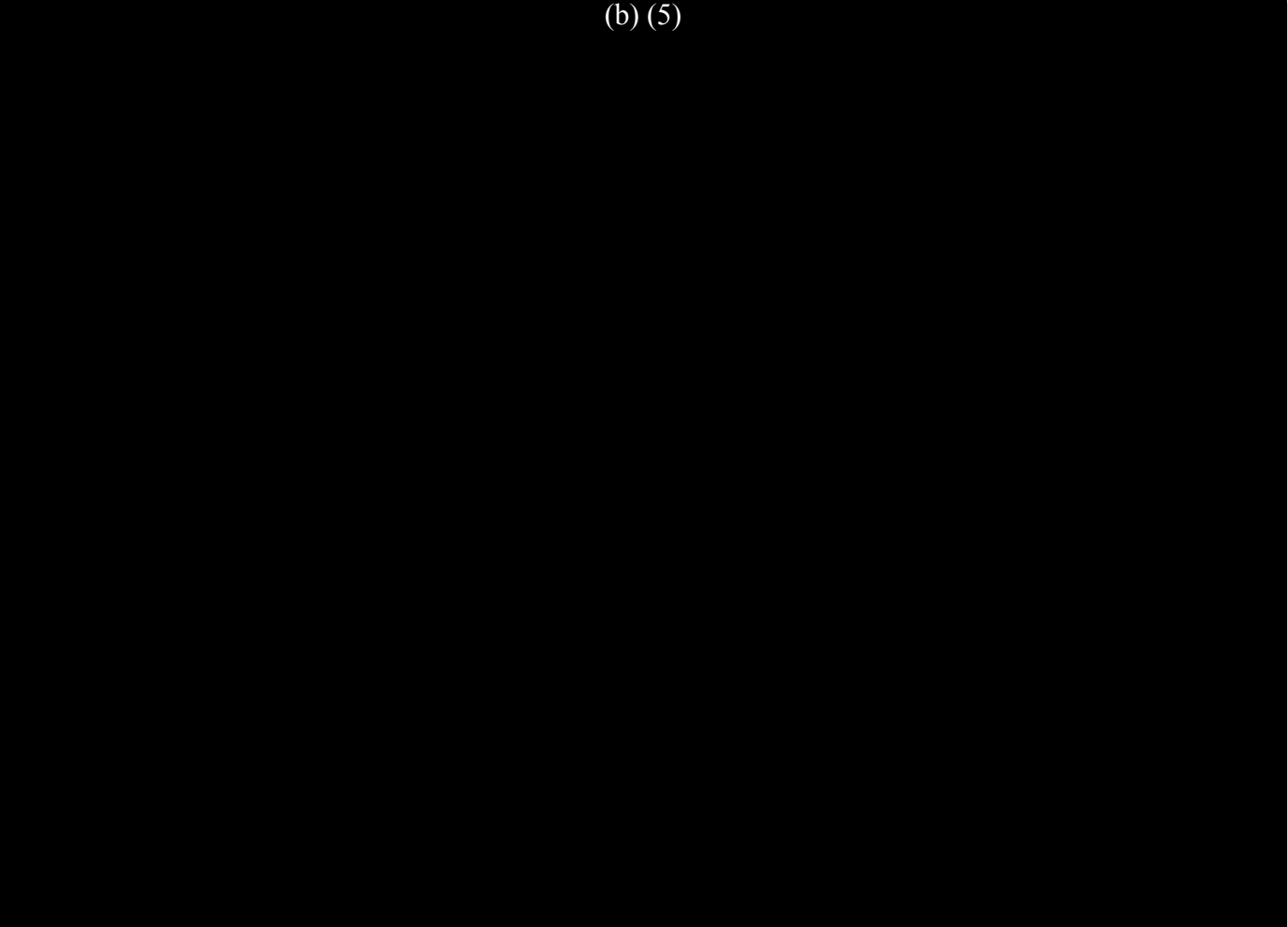
(b) (5)



(b) (5)



(b) (5)



Sincerely,

K. A. FOSTER
Captain, Judge Advocate General's Corps
United States Navy
Assistant Judge Advocate General (Civil
Law)

Copy to:
OJAG Code 14
DNS-36

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) LT OJAG, Code 14
Sent: Monday, October 26, 2015 17:17
To: (b) (6) LCDR OJAG, CODE 11
Subject: (b) (5)
Attachments: (b) (5)

(b) (5)

V/r,

(b) (6)

-----Original Message-----

From: (b) (6) LCDR OJAG, CODE 11

Sent: Monday, October 26, 2015 4:37 PM

To: (b) (6) LT OJAG, Code 14

(b) (5)

(b) (6)

(b) (5)

V/r

(b) (6)

-----Original Message-----

From: (b) (6) LT OJAG, Code 14

Sent: Monday, October 26, 2015 4:26 PM

To: Foster, Kirk A CAPT AJAG, 01

Cc: (b) (6) LCDR OJAG, CODE 11

(b) (5)

(b) (5)

Very respectfully,

(b) (6)

LT, JAGC, USN

Office of the Judge Advocate General

General Litigation Division (Code 14)

1322 Patterson Avenue, SE, STE 3000

Washington Navy Yard, DC 20374

TEL: (b) (6)

DSN

From: (b) (6) @aol.com
To: (b) (6) LT OJAG, Code 14
Cc: Foster, Kirk A CAPT AJAG, 01; (b) (6) @navy.mil; DONFOIA-PA; Patterson, Robin L CTV OPNAV, DNS-36
Subject: Re: FOIA Appeal DON-NAVY-2015-008860
Date: Saturday, October 17, 2015 7:14:37 PM

LT (b) (6)

It appears inappropriate for your office to act as the adjudicating authority for this appeal. My request seeks records related to FOIA appeals adjudicated by your office, such that you or others in your office may have been involved in responding to the request that I am appealing or in a subsequent remanded of this request. I note that for a similar appeal you stated, "your appeal will be handled by the Office of the Assistant Judge Advocate General for Civil Law as it would be a conflict of interest for our office make the final appeal decision on a request that we adjudicated and we want to ensure your appeal receives an impartial review." Did your office participate in the initial determination, in internal records search for this appeal or do you anticipate that your office will be participating upon remand?

Moreover, the requested records concern "the operations or activities of the government." The disclosure is likely to contribute to an understanding of government operations or activities and contribute to an understanding of the subject by the public. Moreover, this request is to ascertain the "working law" of the Agencies, and to determine whether the Agencies were acting lawfully in carrying out their duties under the FOIA and Privacy Act. This includes actions of your office related to appeals reporting in the Agency's Annual FOIA Report submission.

Also, your coordination with other agencies on this appeal as the appellate authority may be unfitting. In my request, I asked that you sustain my appeal and remand my request back for direct reply to me. I further asked that I be granted new appellate rights following a subsequent reply. My understanding is that upon remand coordination with other agencies by the agency responding to the request (not the appellate authority) may be suitable. Moreover, my request seeks DON/DON JAG records. Your final determination should address the records that I specifically sought in this FOIA request. This appears to be an effort to confuse matters for other FOIA requests seeking records from your office which are now under appeal.

For DONFOIA-PA@navy.mil <<mailto:DONFOIA-PA@navy.mil>> Please reassign this appeal to P the Office of the Assistant Judge Advocate General for Civil Law. I insist that each of my individual appeals be addressed separately and not commingled to avoid having to sustain my appeals. It is my intent that DON sustain each separate appeal and properly report your final determinations in you Annual FOIA reports.

Thank you again.

With my respect,

Robert Hammond

In a message dated 10/2/2015 3:53:15 P.M. Eastern Daylight Time, (b) (6) @navy.mil writes:

Good afternoon Mr. Hammond,

I wanted to make sure you didn't think we'd forgotten about the above numbered appeal. Because of the unusual circumstances involved in WRNMMC's shifting of command's and the FOIA process, our response will take a bit longer than anticipated - I'm trying to make sure that we are tracking down exactly what was down to search for responsive records and ensuring all bases are covered in locating responsive records but the multiple commands involved and changeover that occurred in 2013 is adding to the time it's taking. I anticipate having a response to you within 10 business days. Have a great weekend!

Very respectfully,

(b) (6)

LT, JAGC, USN
Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Avenue, SE, STE 3000
Washington Navy Yard, DC 20374
TEL: (b) (6)
DSN (b) (6)

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) LT OJAG, Code 14
Sent: Monday, October 26, 2015 16:26
To: Foster, Kirk A CAPT AJAG, 01
Cc: (b) (6) LCDR OJAG, CODE 11
Subject: (b) (5)
Attachments:

(b) (5)


Very respectfully,

(b) (6)


LT, JAGC, USN
Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Avenue, SE, STE 3000
Washington Navy Yard, DC 20374

TEL: (b) (6)
DSN (b) (6)

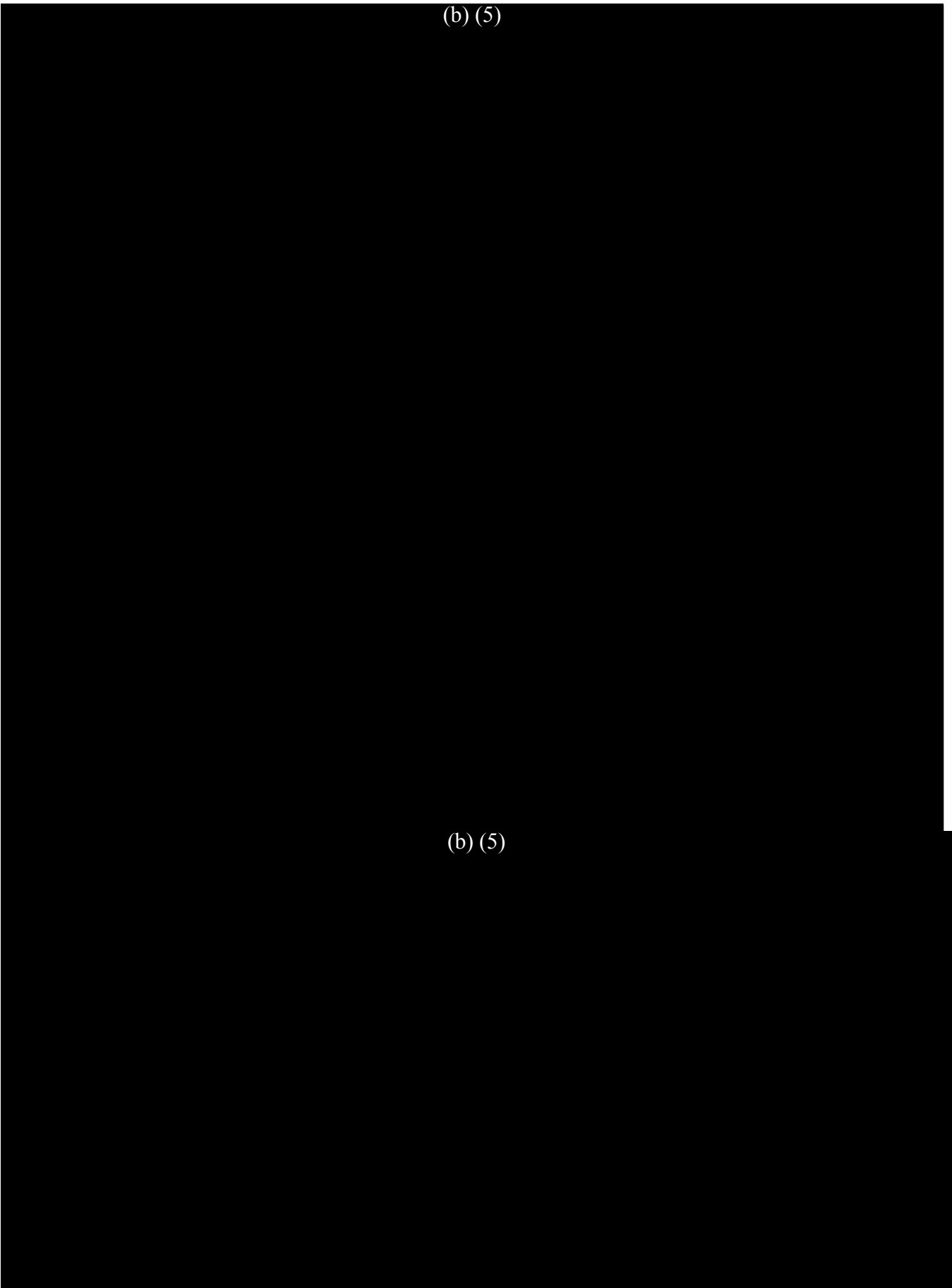
(b) (5)



(b) (5)




(b) (5)




(b) (5)

(b) (5)



(b) (5)



Sincerely,

K. A. FOSTER

5720

Ser **XX/XXX**

October **XX**, 2015

Captain, Judge Advocate General's Corps
United States Navy
Assistant Judge Advocate General (Civil Law)

Copy to:
OJAG Code 14
DNS-36

Yost, Adam B LCDR OJAG, Code 14

From: Lattin, Grant E CIV OJAG, CODE 14
Sent: Monday, October 26, 2015 10:24
To: (b) (6) LT OJAG, Code 14
Cc: (b) (6) LCDR OJAG, Code 14
Subject: RE: Hammond FOIA appeal ready

Done. Thx.

Grant Lattin
Director, General Litigation Division
OJAG (Code 14)

(b) (6)

-----Original Message-----

From: (b) (6) LT OJAG, Code 14
Sent: Monday, October 26, 2015 9:21 AM
To: Lattin, Grant E CIV OJAG, CODE 14
Cc: (b) (6) LCDR OJAG, Code 14
Subject: Hammond FOIA appeal ready

Good morning sir,

(b) (5)

Very respectfully,

(b) (5)

LT, JAGC, USN
Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Avenue, SE, STE 3000
Washington Navy Yard, DC 20374

TEL: (b) (6)
DSN (b) (6)

Yost, Adam B LCDR OJAG, Code 14

From: Lattin, Grant E CIV OJAG, CODE 14
Sent: Monday, October 19, 2015 8:32
To: Foster, Kirk A CAPT AJAG, 01
Cc: (b) (6) LT OJAG, Code 14; (b) (6) LCDR OJAG, Code 14
Subject: RE: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

(b) (5)

Grant Lattin
Director, General Litigation Division
OJAG (Code 14)
(b) (6)

-----Original Message-----

From: Foster, Kirk A CAPT AJAG, 01
Sent: Monday, October 19, 2015 8:19 AM
To: (b) (6) LCDR OJAG, Code 14
Cc: Lattin, Grant E CIV OJAG, CODE 14
Subject: FW: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

(b) (5)

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Saturday, October 17, 2015 8:14 PM
To: Foster, Kirk A CAPT AJAG, 01; DONFOIA-PA
Cc: Patterson, Robin L CIV OPNAV, DNS-36; (b) (6) LT OJAG, Code 14
Subject: Appeal DON 2015-009400 and Other Appeals - Please Take Immediate Action

Captain Foster and DONFOIA-PA@navy.mil <mailto:DONFOIA-PA@navy.mil>

This is in response to Captain Foster's letter 2570, Ser 10/045 dated October 8, 2015 but post marked October 15, 2015 addressing my appeal with DON tracking number 2015-009400. I have attached that letter for everyone's convenience.

For Captain Foster,

First, you failed to advise me of my right to seek judicial review as required by the FOIA and governing regulations and policies. Please provide me a proper letter of your final determination.

Next you suggest that you are "directing Code 14 to release additional documents to you.

Specifically, I am directing them to conduct a search for all records received from you in

FY2013, all records dealing with your appeals as they relate to the FY2013 annual FOIA

report (which was released to you in the original response to your request), and a copy of

all Code 14 correspondence to you regarding these FY2013 appeals in their possession." Please note that all of these records are already the subject of other FOIA requests under appeal and these records must be addressed by acting on and sustaining those separate appeals.

For DONFOIA-PA@navy.mil <mailto:DONFOIA-PA@navy.mil> ,

Please immediately act on my separate appeals shown below that are directly related to documents cited above in Captain Foster's letter:

1. Request DON-NAVY-2015-007691, Appealed as DON-NAVY-2015-008860 on 30-Aug-15, subject: Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to Walter Reed National Military Medical Center (WRNMMC)
2. Request DON-NAVY-2015-0090, Appealed as DON-NAVY-2016-000208 on 10/9/2015, subject: Records of Fiscal Year 2013 FOIA Appeals Cited in DON JAG final determination letter dated 18 Sep 2015
3. Request DON-NAVY-2015-008546
<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=y9XgYDan2nLnclKNxCotRsfN3-XAPJAa&requestFunction=View>> . Appealed as DON-NAVY-2016-000207 on 10/9/2015, subject: Records of Appeal of WRNMMC Failure to Correct Medical Records (b) (6) and (b) (6)
4. Request DON-NAVY-2015-007416
<<https://foiaonline.regulations.gov/foia/action/registered/requestmod?requestId=mK3aw6zS0Mdptv4rOXUaWuijKohWjNFZ&requestFunction=View>> Appealed as DON-NAVY-2015-009400 on 9/18/2015, subject: Records of Appeal Final Determinations – Hammond Fiscal Year 2013

Note that there are other appeals pending adjudication. Those appeals must be acted in a timely manner as well.

Finally, please provide all responses via PDF. To the extent that responses do not contain my PII, please provide them by return email. In this way there will be no disagreement about what is being provided and when as related to my appeal rights and to your Annual FOIA report. You may securely redact my PII (if any) and return replies by email.

Thank you,

With my respect,

Robert Hammond

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6)
Sent: Wednesday, October 14, 2015 20:43
To: (b) (6) LT OJAG, Code 14
Subject: RE: FOIA Hammond
Attachments: (b) (5)

LT,
Here you go.
R/

-----Original Message-----

From: (b) (6) LT OJAG, Code 14 [mailto:(b) (6)@navy.mil]
Sent: Wednesday, October 14, 2015 9:50 AM
To: (b) (6)
Subject: RE: FOIA Hammond

Good morning sir,

Just confirming that you didn't send the second letter - if so, I have not received anything.

V/r,

(b) (6)

-----Original Message-----

From: (b) (6)
Sent: Tuesday, October 13, 2015 7:58 AM
To: (b) (6) LT OJAG, Code 14
Subject: RE: FOIA Hammond

LT,

(b) (5)

R/

(b) (6)

-----Original Message-----

From: (b) (6) LT OJAG, Code 14 [mailto:(b) (6)@navy.mil]
Sent: Monday, October 05, 2015 9:01 AM
To: (b) (6)
Subject: RE: FOIA Hammond

(b) (5)

(b) (5)

V/r,

(b)

-----Original Message-----

From: (b) (6)

Sent: Monday, October 05, 2015 8:58 AM

To: (b) (6) LT OJAG, Code 14

Subject: Re: FOIA Hammond

(b) (6)

Sent from my iPhone

> On Oct 5, 2015, at 8:30 AM, "(b) (6) LT OJAG, Code 14"

< (b) (6) @navy.mil> wrote:

>

> Good morning sir,

>

(b) (5)

>

> V/r,

>

> (b) (6)

>

> -----Original Message-----

> From: (b) (6)

> Sent: Sunday, October 04, 2015 9:51 AM

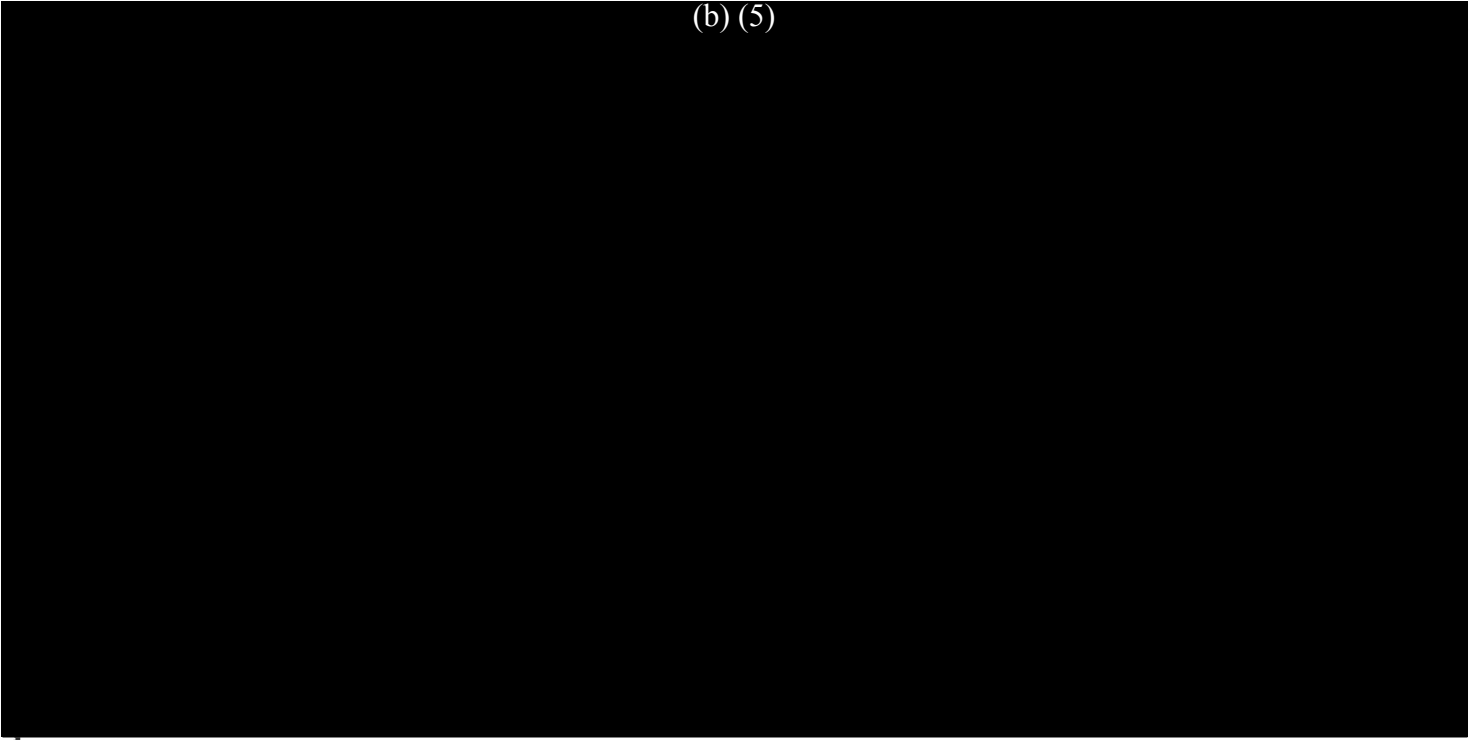
> To: (b) (6) LT OJAG, Code 14

> Subject: RE: FOIA Hammond

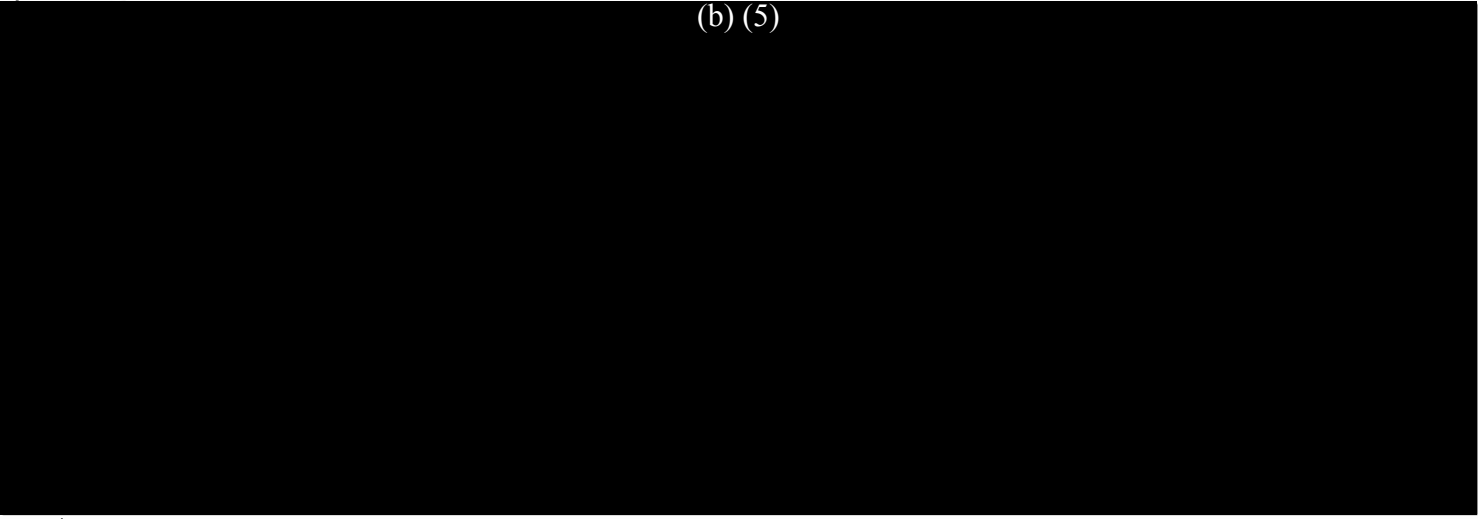
>

(b) (5)

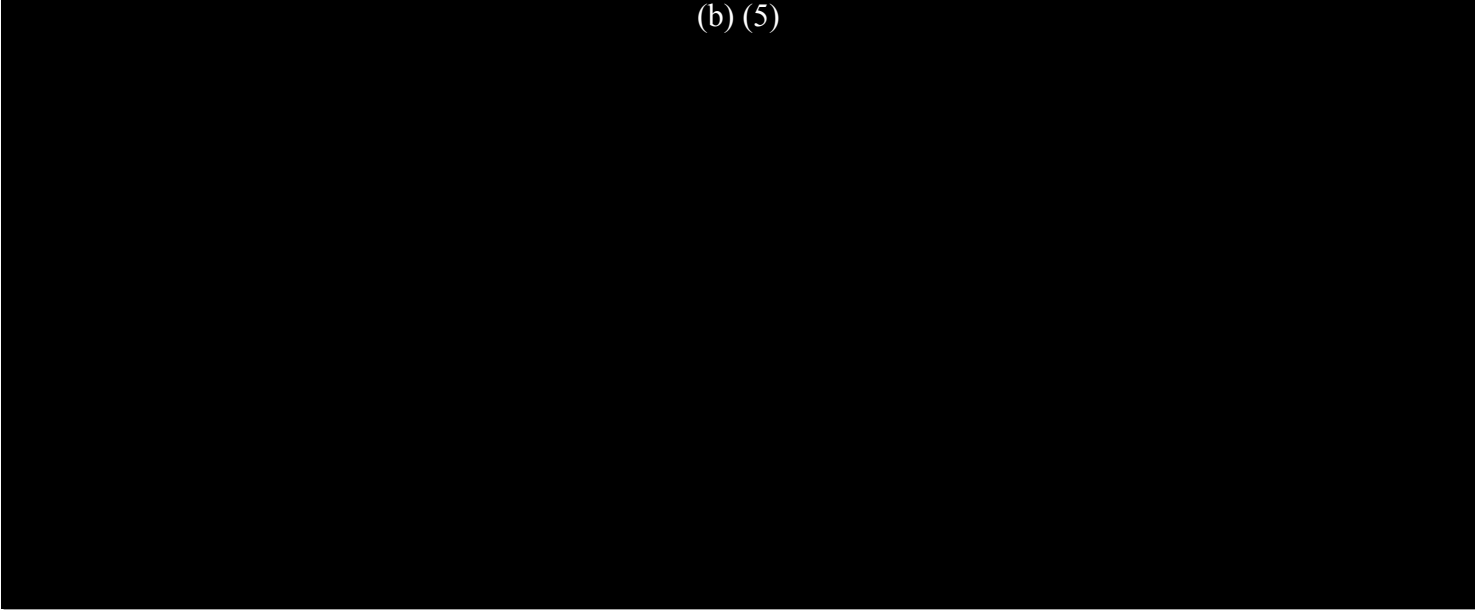
(b) (5)



(b) (5)



(b) (5)



(b) (5)

> Let me know.

> R/

> (b) (6)

>

>

> -----Original Message-----

> From: (b) (6) LT OJAG, Code 14

> [mailto:(b) (6)@navy.mil]

> Sent: Friday, October 02, 2015 3:20 PM

> To: (b) (6)

> Subject: RE: FOIA Hammond

>

(b) (5)

> V/r,

>

> (b) (6)

>

> -----Original Message-----

> From: (b) (6) LT OJAG, Code 14

> Sent: Friday, October 02, 2015 11:29 AM

> To: (b) (6)

> Subject: RE: FOIA Hammond

>

(b) (5)

>

> V/r,

>

> (b) (6)

>

> -----Original Message-----

> From: (b) (6)

> Sent: Thursday, October 01, 2015 3:04 PM

> To: (b) (6) LT OJAG, Code 14

> Subject: RE: FOIA Hammond

(b) (5)

> R/

> (b) (6)

>

> -----Original Message-----

> From: (b) (6) LT OJAG, Code 14

> [mailto:(b) (6)@navy.mil]

> Sent: Thursday, October 01, 2015 10:50 AM

> To: (b) (6)

> Subject: RE: FOIA Hammond

(b) (5)

> V/r,

>

> (b) (6)

>

> -----Original Message-----

> From: (b) (6)

> Sent: Friday, September 25, 2015 8:41 AM

> To: (b) (6) LT OJAG, Code 14

> Subject: Re: FOIA Hammond

>

> Great thanks

>

> Sent from my iPhone

>

>>> On Sep 25, 2015, at 7:56 AM, (b) (6) LT OJAG, Code 14"

>> <(b) (6)@navy.mil> wrote:

>>

>> Good morning sir,

>>

>> I appreciate you running this down for me. We have a few more days,
>> so
> please check in with me next Tuesday or Wednesday if there's still
> nothing
and we'll determine next steps. Hopefully we'll hear back before then however.

>>
>> V/r,

>>
>> (b) (6)

>> -----Original Message-----

>> From: (b) (6)

>> Sent: Thursday, September 24, 2015 7:39 PM

>> To: (b) (6), LT OJAG, Code 14

>> Cc: (b) (6)

>> OJAG,

> CODE 14; (b) (6)

>> Subject: FOIA Hammond

>>
>> LT,

(b) (5)

>>
>> Thanks,

>>
>> R/

>>
>> (b) (6)

>>
>>
>> (b) (6)

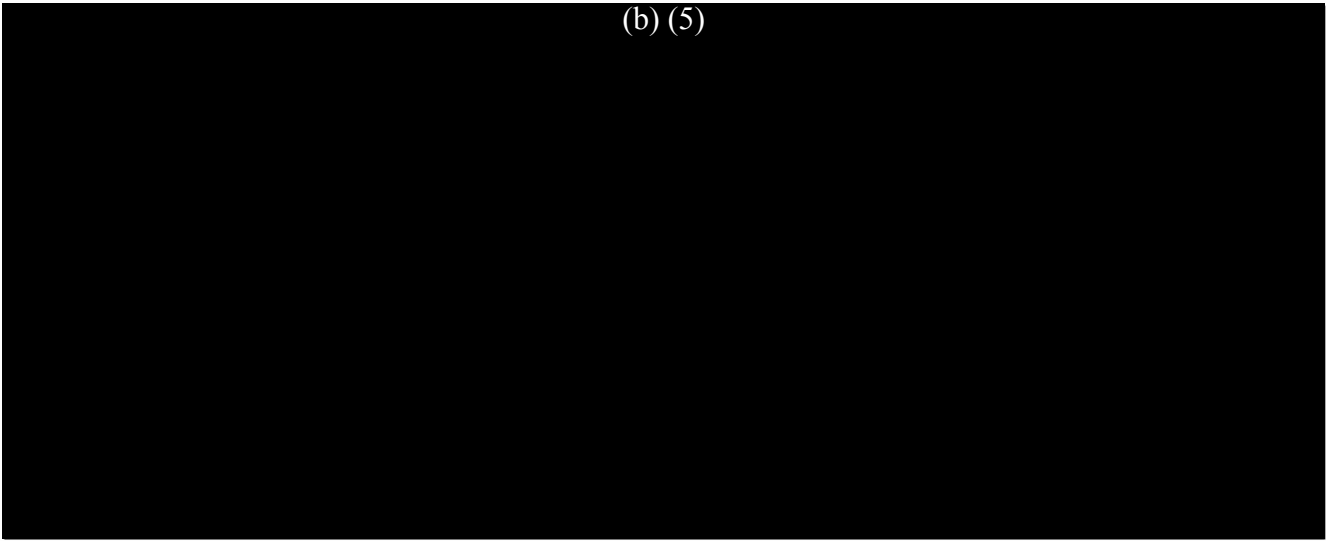
(b) (5)



(b) (5)



(b) (5)




Sincerely,

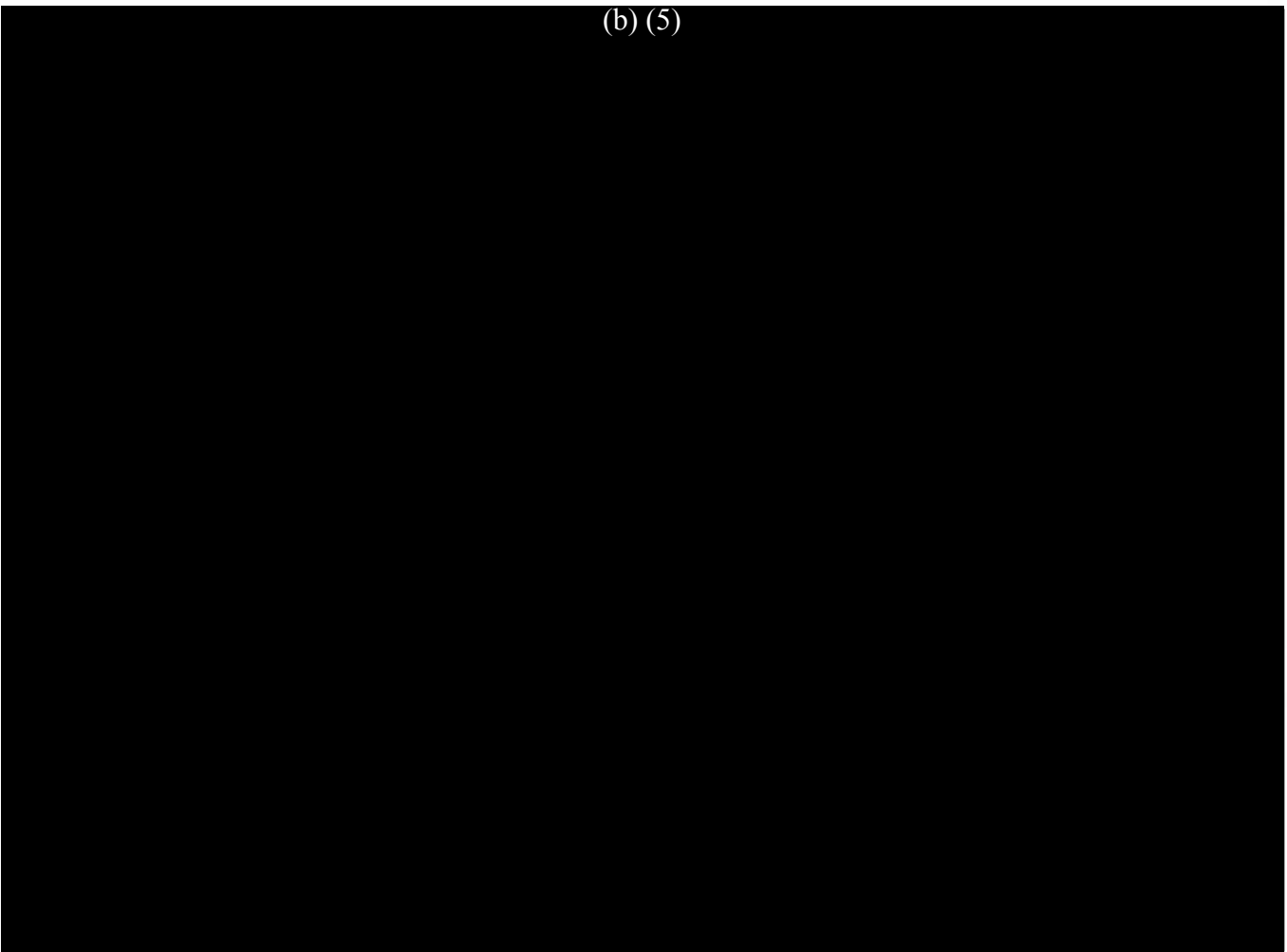
G. E. LATTIN
Director
General Litigation Division

Copy to:
DNS-36

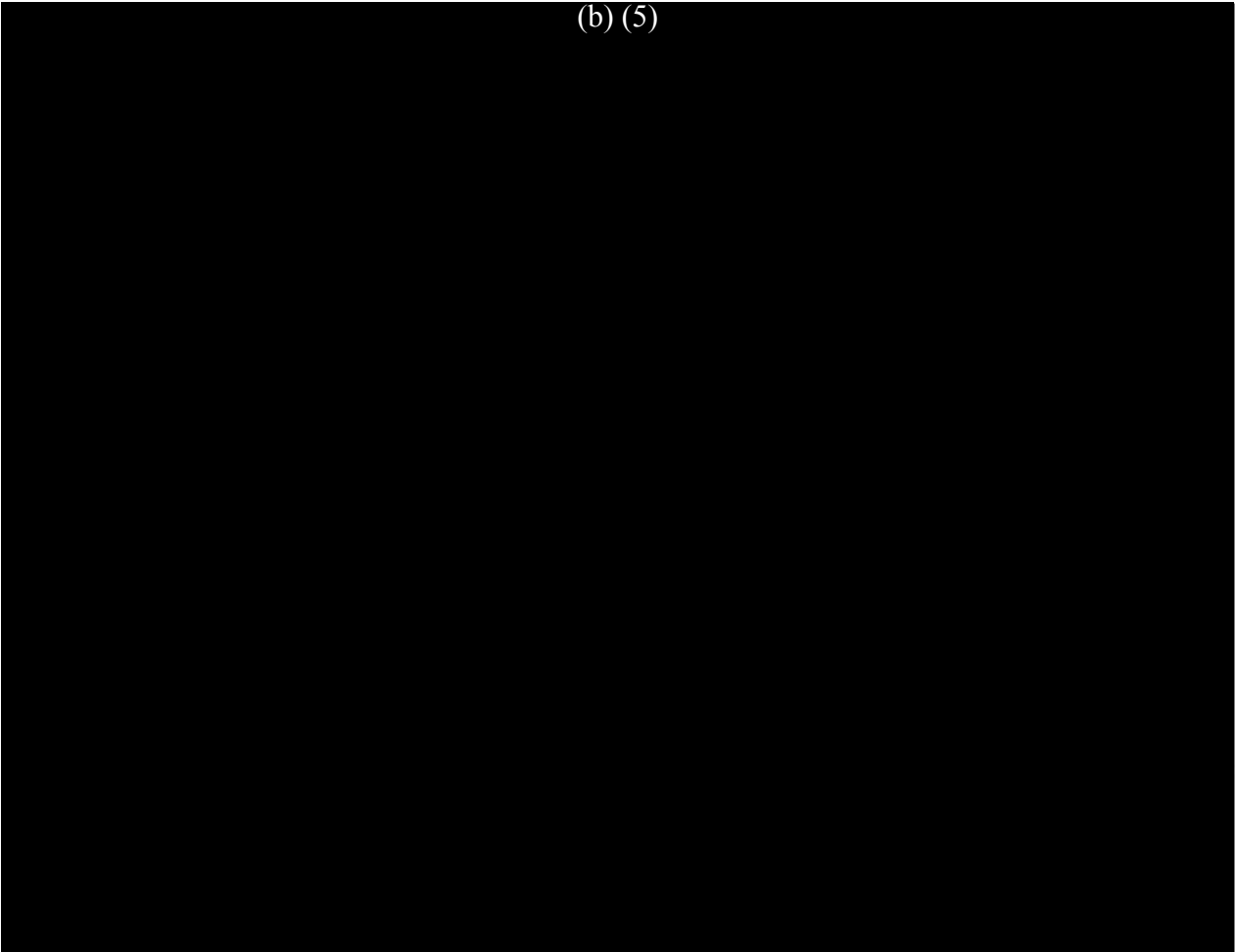
(b) (5)



(b) (5)



(b) (5)



G. E. LATTIN
Director
General Litigation Division

Copy to:
DNS-36

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) LT OJAG, Code 14
Sent: Friday, October 02, 2015 15:53
To: (b) (6) @aol.com
Subject: FOIA Appeal DON-NAVY-2015-008860

Good afternoon Mr. Hammond,

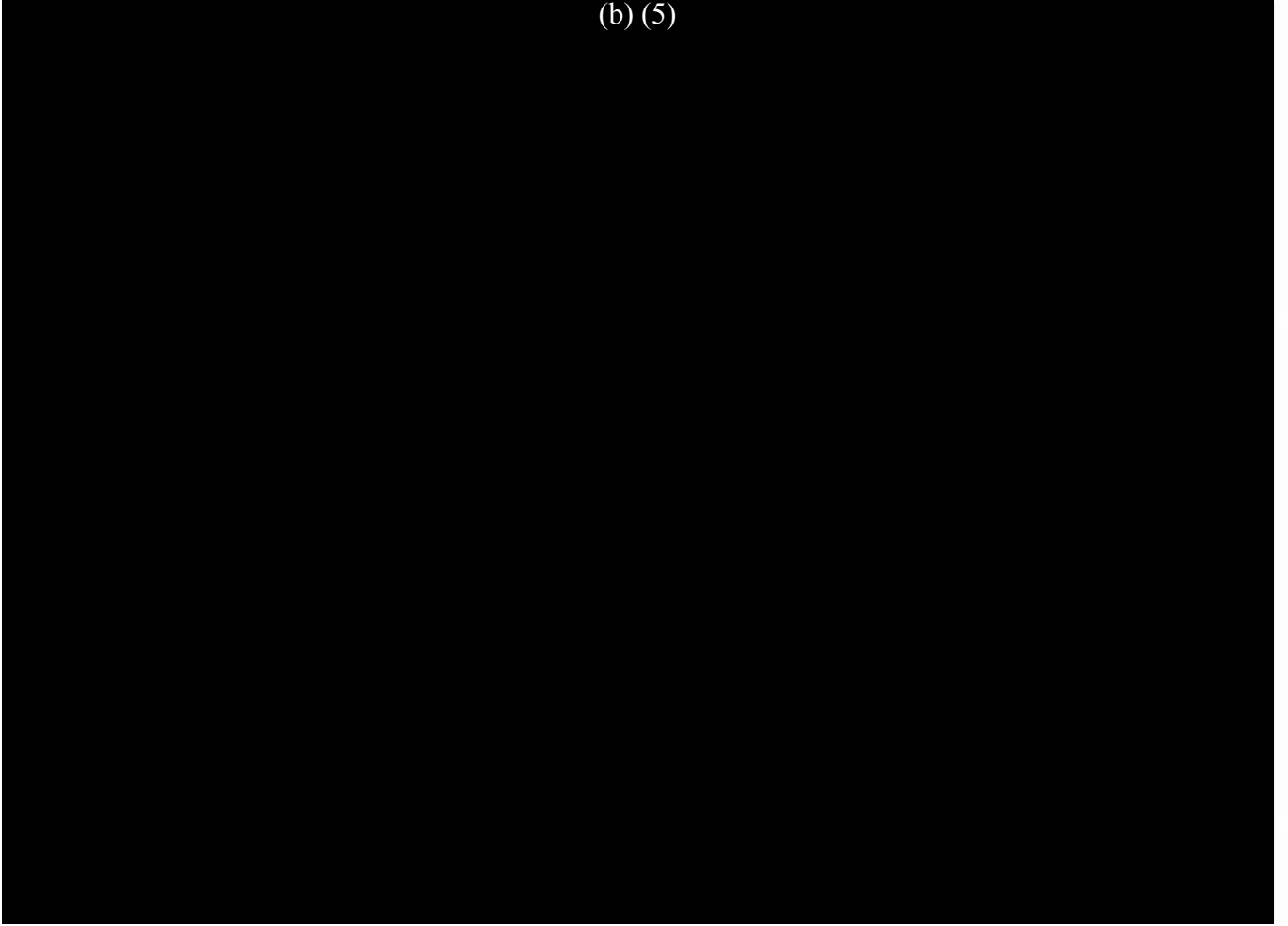
I wanted to make sure you didn't think we'd forgotten about the above numbered appeal. Because of the unusual circumstances involved in WRNMMC's shifting of command's and the FOIA process, our response will take a bit longer than anticipated - I'm trying to make sure that we are tracking down exactly what was down to search for responsive records and ensuring all bases are covered in locating responsive records but the multiple commands involved and changeover that occurred in 2013 is adding to the time it's taking. I anticipate having a response to you within 10 business days. Have a great weekend!

Very respectfully,

(b) (6)

LT, JAGC, USN
Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Avenue, SE, STE 3000
Washington Navy Yard, DC 20374
TEL: (b) (6)
DSN: (b) (6)

(b) (5)



Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) LT OJAG, Code 14
Sent: Friday, September 18, 2015 13:52
To: (b) (6) LCDR OJAG, Code 14
Subject: RE: Reserve Projects
Attachments: Reserve Projects for 18 Sep - 20 Sep 15.docx

(b) (6)

(b) (6) and I's list of 4 projects for reservists attached.

V/r,

(b) (6)

-----Original Message-----

From: (b) (6) LCDR OJAG, CODE 14
Sent: Friday, September 18, 2015 1:41 PM
To: (b) (6) LT OJAG, Code 14
Subject: Reserve Projects

Here you go

(b) (6) U.S. Navy
Office of the Judge Advocate General
General Litigation Division (Code 14)
TEL: (b) (6)
DSN: (b) (6)
FAX: (202) 685-5472

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~~**FOR OFFICIAL USE ONLY-PRIVACY SENSITIVE:**~~ Any misuse or unauthorized disclosure of this information may result in both criminal and civil penalties.

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6)
Sent: Thursday, October 01, 2015 15:04
To: (b) (6) LT OJAG, Code 14
Subject: RE: FOIA Hammond
Attachments: (b) (5)

(b) (5)

R/
(b) (6)

-----Original Message-----

From: (b) (6) LT OJAG, Code 14 (mailto:(b) (6)@navy.mil]
Sent: Thursday, October 01, 2015 10:50 AM
To: (b) (6)
Subject: RE: FOIA Hammond

(b) (5)

V/r,

(b) (6)

-----Original Message-----

From: (b) (6)
Sent: Friday, September 25, 2015 8:41 AM
To: (b) (6) LT OJAG, Code 14
Subject: Re: FOIA Hammond

Great thanks

Sent from my iPhone

> On Sep 25, 2015, at 7:56 AM, "(b) (6) LT OJAG, Code 14"
<(b) (6)@navy.mil> wrote:

(b) (5)

> so

(b) (5)

>

> V/r,

>

> (b)

>

> -----Original Message-----

> From: (b) (6)

> Sent: Thursday, September 24, 2015 7:39 PM

> To: (b) (6)

> Cc:

> OJAG,

CODE 14; (b) (6)

> Subject: FOIA Hammond

>

(b) (5)

>

> Thanks,

>

> R/

>

> (b) (6)

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> (b) (6)

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>

Yost, Adam B LCDR OJAG, Code 14

From: Winston, Wendy A CIV OJAG, CODE 14
Sent: Thursday, September 17, 2015 16:44
To: (b) (6) CIV OPNAV, DNS-36L; Patterson, Robin L CIV OPNAV, DNS-36;
Strong, Richard R CIV OPNAV, DNS-3
Cc: (b) (6) LT OJAG, Code 14
Subject: RE: FOIA Appeal ICO Hammond DON-NAVY-2015-008860

Good Afternoon,

Thanks for your response we are in receipt of it.

v/r
Ms. Wendy A. Winston

-----Original Message-----

From: (b) (6) CIV OPNAV, DNS-36L
Sent: Thursday, September 17, 2015 4:41 PM
To: Winston, Wendy A CIV OJAG, CODE 14; Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3
Cc: (b) (6) LT OJAG, Code 14
Subject: RE: FOIA Appeal ICO Hammond DON-NAVY-2015-008860

Good Afternoon Ms. Winston:

Please find the attached response to your request for a statement regarding Mr. Hamonds's appeal of DON-NAVY-2015-008860.

Thank you.

v/r

(b) (6)

Attorney- Advisor, SECNAV/OPNAV, FOIA/PA Program Office (DNS-36)
Department of the Navy
P: (b) (6)
F: (202) 685-6577
(b) (6) @navy.mil

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-----Original Message-----

From: Winston, Wendy A CIV OJAG, CODE 14

Sent: Tuesday, September 15, 2015 9:42 AM

To: Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3; (b) (6) CIV OPNAV, DNS-36L

Cc: (b) (6) LT OJAG, Code 14

Subject: FOIA Appeal ICO Hammond DON-NAVY-2015-008860

Good Morning,

We received a FOIA appeal from Mr. Robert Hammond via FOIA online on 30 Aug 2015, original request number DON-NAVY-2015-007691. Could you please provide to us, by 18 Sept 2015, I apologize for the short notice.

- 1) A brief memo explaining the description of the search conducted.
- 2) A copy of any correspondence between your command and the requester (both emails and written correspondence).

Thank you and have a great day!

Very respectfully,

Wendy A. Winston
Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Avenue, SE, STE 3000
Washington Navy Yard, DC 20374
TEL: (b) (6)
DSN: (b) (6)

Yost, Adam B LCDR OJAG, Code 14

From: Winston, Wendy A CIV OJAG, CODE 14
Sent: Tuesday, September 15, 2015 9:35
To: (b) (6) LT OJAG, Code 14
Subject: RE: FOIA Appeal ICO Hammond DON-NAVY-2015-008860 (FOR REVIEW BEFORE SENDING)

Thanks! Call me the delete queen my inbox and outbox is over loaded LOL

-----Original Message-----

From: (b) (6) LT OJAG, Code 14
Sent: Tuesday, September 15, 2015 9:35 AM
To: Winston, Wendy A CIV OJAG, CODE 14
Subject: RE: FOIA Appeal ICO Hammond DON-NAVY-2015-008860 (FOR REVIEW BEFORE SENDING)

Here you go

-----Original Message-----

From: Winston, Wendy A CIV OJAG, CODE 14
Sent: Friday, September 11, 2015 9:26 AM
To: (b) (6) LT OJAG, Code 14
Subject: FOIA Appeal ICO Hammond DON-NAVY-2015-008860 (FOR REVIEW BEFORE SENDING)

Good Morning,

We received a FOIA appeal from Mr. Robert Hammond via FOIA online on 30 Aug 2015, original request number DON-NAVY-2015-007691. Could you please provide to us, by 14 Sept 15, with the short fuse deadline we will give you extended time to provide the information..

- 1) A brief memo explaining the description of the search conducted.
- 2) A copy of any correspondence between your command and the requester (both emails and written correspondence).

Thank you and have a great day!

Very respectfully,

Wendy A. Winston
Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Avenue, SE, STE 3000
Washington Navy Yard, DC 20374
TEL: (b) (6)
DSN: (b) (6)

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) LT OJAG, Code 14
Sent: Friday, September 11, 2015 9:13
To: Winston, Wendy A CIV OJAG, CODE 14
Subject: RE: FOIA Appeal DON-NAVY-2015-008860 Submitted

Did we ever reach out to DNS-36 on this one? If not, let's do that. Deadline for hearing from them would be 14 Sep but given the time crunch we can extend it longer and I'll just take it for a quick turnaround.

-----Original Message-----

From: (b) (6) LT OJAG, CODE 14
Sent: Thursday, September 03, 2015 2:46 PM
To: Winston, Wendy A CIV OJAG, CODE 14
Cc: (b) (6) LT OJAG, Code 14
Subject: RE: FOIA Appeal DON-NAVY-2015-008860 Submitted

Wendy,

This looks like an appeal that was submitted directly via FOIA Online. If you get a FOIA Online email containing this much detail (as opposed to the one sentence summaries we usually enter) or for a case not already on our tracker, it has likely been submitted directly online rather than through the mail.

Please go ahead and create a folder for the appeal and add it to our tracker so we can process it. The "incoming" documents can be downloaded from the FOIA Online case page.

Thanks.

V/r

(b) (6)

LT, JAGC, USN
Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Avenue, SE, STE 3000
Washington Navy Yard, DC 20374
TEL: (b) (6)
DSN: (b) (6)
FAX: (202) 685-5472

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-----Original Message-----

From: Winston, Wendy A CIV OJAG, CODE 14

Sent: Thursday, September 03, 2015 10:19 AM

To: (b) (6) LT OJAG, CODE 14

Subject: RE: FOIA Appeal DON-NAVY-2015-008860 Submitted

Do I need to do anything with the below? I didn't see a folder on the share drive please advise.

-----Original Message-----

From: foia@erulemaking.net [mailto:foia@erulemaking.net]

Sent: Sunday, August 30, 2015 11:20 PM

To: (b) (6) LT OJAG, CODE 14; Winston, Wendy A CIV OJAG, CODE 14

Subject: FOIA Appeal DON-NAVY-2015-008860 Submitted

This message is to notify you of a new appeal submission to the FOIAonline application. Appeal information is as follows:

- * Appeal Tracking Number: DON-NAVY-2015-008860
- * Request Tracking Number: DON-NAVY-2015-007691
- * Requester Name: robert hammond
- * Date Submitted: 08/30/2015
- * Appeal Status: Submitted
- * Description: My FOIA Request and DON's Non-responsive Reply Thereto.

The DON reply is non-responsive providing no records from FOIA tracking systems or tools, but rather providing a completely irrelevant letter dated 7 Jan 15. That letter is clearly not a responsive reply to my FOIA Request DON #15-I, which is the subject of this appeal. Please see below.

The DON letter of 7 Jan 2015 is an unsolicited DON letter related to Navy Bureau of Navy Medicine's BUMED) failure to provide any response for a single FOIA request seeking the WRNMMC FY2012 Annual FOIA Report submission, which is shown in the BUMED and DON FY 2012 Annual FIOA reports as having been submitted through BUMED to DON. BUMED has still not provided a reply to that unrelated FOIA request and it remains open. Moreover, DON letter 5720 Ser DNS-36 - JP/150105010 dated 7 Jan 15, signed by Ms. Patterson, DON FOIA/PA Manager, is misleading and contains factual inaccuracies. I am including my reply to that letter as enclosure (3), both to preserve that replay as a FOIA case record and to include it as background for this appeal and for judicial review, should judicial review of this appeal become necessary. In this way the full record will be available to the public .

Basis for Appeal.

I am appealing that the Agency Did Not

(1) conduct a search within DON where responsive records would likely be located (i.e. any DON system/tool used for tracking FOIA requests (as described in the FOIA request and above) and any DON JAG tracking system/tool)), and issue a finding as to whether there are responsive records therein.

(2) after completing the DON search for responsive records, forward the request "to the DoD Component or other Federal Agency with the responsibility for the records requested (i. e. WRNMMC) for with explicit instructions for further processing as a matter under their cognizance.. See DoD 5400.7-R.C5.2.7.

Yost, Adam B LCDR OJAG, Code 14

From: Winston, Wendy A CIV OJAG, CODE 14
Sent: Tuesday, October 27, 2015 10:39
To: Patterson, Robin L CIV OPNAV, DNS-36; Strong, Richard R CIV OPNAV, DNS-3; (b) (6)
(b) (6) CIV OPNAV, DNS-36L
Cc: (b) (6) LT OJAG, Code 14
Subject: FINAL FOIA RESPONSE AND REMAND LETTER ICO MR. ROBERT HAMMOND DON-NAVY-2015-008860
Attachments: Hammond 2015-008860 remand.pdf; Hammond 2015-008860 final .pdf

Good Morning,

Please see the attached final response and remand letter ICO Mr. Robert Hammond, original request number DON-NAVY-2015-007691.

Thank you and have a great day!

Very respectfully,

Wendy A. Winston
Office of the Judge Advocate General
General Litigation Division (Code 14)
1322 Patterson Avenue, SE, STE 3000
Washington Navy Yard, DC 20374
TEL: (b) (6)
DSN: (b) (6)

Yost, Adam B LCDR OJAG, Code 14

From: Lattin, Grant E CIV OJAG, CODE 14
Sent: Tuesday, January 02, 2018 8:56
To: Yost, Adam B LCDR OJAG, Code 14
Cc: (b) (6) CDR OJAG, Code 14
Subject: FW: [Non-DoD Source] DOJ Inquiry (DON FOIA Tracking) - DOD Policy/Position Exemption 6. + Exemption 5 + FOIA/PA Reporting
Attachments: FOIA DON 18-AU Case Records DON FOIA Tracking; Hammond FY 2013 FOIA Requests to Walter Reed w. encl.pdf; Walter Reed 1st Quarter FY13 FOIA Report email to DONFOIA-Jan242013.pdf
Signed By: (b) (6) @navy.mil

FYI.

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Tuesday, December 26, 2017 8:41 PM
To: (b) (6) @mail.mil; Fletcher, Kelly E SES SECNAV, DON CIO; Faison, Clinton F RADM OPNAV; (b) (6) @mail.mil
Cc: (b) (6) @mail.mil; (b) (6) @dha.mil; (b) (6) @mail.mil; (b) (6) @med.navy.mil; (b) (6) @mail.mil
Subject: [Non-DoD Source] DOJ Inquiry (DON FOIA Tracking) - DOD Policy/Position Exemption 6. + Exemption 5 + FOIA/PA Reporting

Dear Mr. Hogan, Vice Admiral Faison, Ms. Fletcher, Vice Admiral Bono, With my deep respect, I am providing further documentation regarding a lack of integrity in the FOIA and Privacy Act processes and what I believe to be massive, inaccurate/false reporting to the Attorney General of the United States and Congress involving Walter Reed, Defense Health Agency and Department of Navy (DON), including questions involving intent, potential early collusion and potential ongoing, wide-spread cover up.

Please see my attached FOIA Request seeking case records related to a prior July 22, 2015 FOIA Request to DON seeking, "records of my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests," and my appeal of the Robin Patterson's (DON FOIA/PA Office) initial determination letter. I submitted a similar FOIA request to DHA today.

On August 30, 2015, I appealed Robin Patterson's (DNS-36) 24 Aug 15 initial determination letter. In lieu of releasing responsive records to my FOIA Request demonstrating how Walter Reed's FY 2013 FOIA requests were integrated into Department of Navy's (DON's) electronic tracking systems, Robin Patterson (DON FOIA/PA) released a copy of her own letter dated August 24, 2015 in which Patterson falsely states that BUMED had not received any Annual FOIA Reports from Walter Reed since FY 2009. My August 30, 2015 Appeal containing my July 22, 2015 Request is at Enclosure (1). Regarding Patterson's false statement that BUMED had not received any Annual FOIA Reports from Walter Reed since FY 2009, please see Enclosure (2), which is my separate administrative appeal of my separate FOIA request seeking records of Walter Reed's FY 2012 Annual FOIA Report Submission to BUMED, which DON JAG sustained. Contrary to Patterson's false statement, Walter Reed's FY 2012 FOIA Report was indisputably submitted to BUMED. Walter Reed's FY 2012 Annual FOIA Report submission to BUMED is at pages 49 – 66. The forwarding correspondence from Walter Reed, (presumably Judy J. Bizzell) to BUMED (presumably Della Garcia) is at pages 67-68. DON's FY 2012 FOIA Report Component Listing showing that Walter Reed submitted its FY 2012 FOIA Report through BUMED is at page 33. My reply to Patterson's inaccurate August 24, 2015 letter is at pages 2-47. Bizzell's and Garcia's names and email addresses have been released in the Public Domain numerous times and should not have been redacted. Also, Patterson and Garcia were evidently receiving quarterly FOIA Reports submissions from Bizzell.

As to my August 30, 2015 Appeal, DON JAG did not issue a final determination letter, but instead sent me an email on 11/3/2015 10:20:30 AM simply stating that my Appeal had been remanded back to DON DNS-36 on October 26, 2015. Attached to that email was a November 2, 2015 letter from Robin Patterson stating that, "we redirected your request to WRNMMC." See Enclosure (3).

Walter Reed has never responded. DON has never released a final determination letter addressing records in its custody nor has DON provided any "records of my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests."

I will greatly appreciate your help in getting to the truth of these matters.

With my deep respect,

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>

To: (b) (6) @mail.mil>

Cc: (b) (6) @navy.mil> (b) (6) @mail.mil> (b) (6)

(b) (6) @mail.mil> (b) (6)

(b) (6) @mail.mil> (b) (6)

(b) (6) @med.navy.mil> (b) (6)

(b) (6) @mail.mil> (b) (6)

(b) (6) @mail.mil> (b) (6)

(b) (6) @mail.mil> (b) (6)

Sent: Tue, Dec 26, 2017 8:20 pm

Subject: Re: DOJ Inquiry (PA Complaint) - DOD Policy/Position Exemption 6. + Exemption 5 + FOIA/PA Reporting

with enclosure.

In a message dated 12/22/2017 6:10:03 AM Eastern Standard Time, (b) (6) @aol.com writes:

Robert Hammond

(b) (6)

(b) (6) @aol.com

December 22, 2017

Joo Y. Chung

Director, Directorate of Oversight and Compliance

Office of the Deputy Chief Management Officer

9010 Defense Pentagon

Washington, DC 20301-9010

By Fax to 571-256-4163

Reference: (a) Hammond January 13, 2017 ltr to ODCMO, Ms. Chung; Subject: Defense Health Agency (DHA) and Walter Reed Errant/Inaccurate Privacy Act Reporting and Compliance

Enclosure: (1) Walter Reed's (b) (6) email of 8/19/2013 2:11:51 PM in reply to Hammond FOIA Request WRNMC #13-28 - (b) (6) Unavailability, Sent August 18, 2013 5:31 AM
(2) Office of Government Information Services Mediation email 7.20.2016

Dear Ms. Chung,

First, thank you and your staff for your ongoing support regarding both FOIA and Privacy Act compliance. I sincerely appreciate it.

This relates to the ongoing Department of Justice inquiry with regard to intent, potential collusion and potential ongoing, wide-spread cover up in what I believe to be massive inaccurate/false reporting to the Attorney General and Congress involving Walter Reed, Defense Health Agency and Department of Navy.

Please accept and oversee the processing of this Privacy Act Complaint against Walter Reed's "Special Assistant to the Commander, Privacy Compliance Administrator, Department Chief, HIPAA/Privacy Act/Civil Liberties Office," Walter Reed's FOIA Officer Judy. J. Bizzell and former Walter Reed Commanders Rear Admiral (Dr.) Alton L. Stocks, Retired and Major General (Dr.) Jeffrey B. Clark (currently Director, Operations Directorate, Defense Health Agency), Rear Admiral (Dr.) David A. Lane for refusing to act on my August 18, 2013 FOIA/PA Request at enclosure (1), seeking records that Mr. Davidge relied upon in stating that Ms. (b) (6) was unavailable to review an amendment request of my medical records. Enclosure (2) is an email thread from the Office of Government Services (OGIS), who attempted to mediate this case in July 2016, until Walter Reed abruptly withdrew from mediation after being challenged on the truthfulness of statements by Walter Reed's FOIA Officer, Judy J. Bizzell.

I sought mediation of this Request when Ms. Bizzell told OGIS that there were only two FY 2015 FOIA cases outstanding at that time, which is false. I selected this case (from among many) to challenge that false statement, because I had received an email from Walter Reed's (b) (6) seeking information to process this Request and then Walter Reed never processed it and has never reported it in any Annual FOIA Report that I am aware of. See Enclosure (1).

OGIS, reported in an email of 2/18/2016 8:32:08 A.M. Eastern Standard Time that:

Bizzell did not consider your request [WRNMC #13-28] to be a FOIA request as you cited the Privacy Officer had the information needed. For that reason, the WRNMMC FOIA Office did not provide you with a tracking number or a response and informed you that the information was being forwarded to the Privacy Officer for direct response to you.

See enclosure (2), FOIA WRNMC #13-28 - (b) (6) Unavailability, at 5.

As relates to FOIA reporting, in that same email thread Bizzell states- three years later - that I should submit a new FOIA request to DHA. OGIS also reported that Bizzell stated, "If you would like the WRNMMC FOIA Office to process your August 18, 2013 request, resubmit your request to the Defense Health Agency (DHA)." Id., at 5.

Extremely troublingly, Ms. Bizzell advise OGIS that she had spoken to me on the phone about this request, which is false. After being challenged to produce contemporaneous records of this alleged phone conversation that never occurred, Walter Reed abruptly withdrew from mediation.

I believe that Judy is generally just trying to do a good job, but may be left to bear the blame for decisions that may not have been hers.

As to potential premeditated intent and collusion, Walter Reed's Privacy Officer, Davidge revealed his evident intent to exclude my unanswered FOIA/PA requests from Walter Reed's FY 2013 Annual FOIA Report in and an email of 12/13/2013 6:17:57 P.M, when (in responding to my follow up email regarding the status of my 39 FY 2013 FOIA/PA requests submitted under both FOIA and PA), Davidge directed me to declare which requests are FOIA and which are PA, stating, "send all requests to my attention detailing whether or not you are submitting a request under FOIA or the Privacy Act."

DOD policy with respect to FOIA and PA is that, "Only if the records can be denied under both statutes may the Department of Defense withhold the records from the individual." See DoD 5400.11-R, May 14, 2007, C3.1.9.1.2. Please refer to Lattin's final appellate determination letter dated 18 Sep 2013 using contradictory language.

As to reporting, Privacy Act requests actually answered exclusively under PA (after being given the benefit of both Acts) are excluded from the Annual FOIA Report:

"The Annual FOIA Report is designed to capture an agency's FOIA activities and therefore should not include requests for records handled exclusively under the Privacy Act of 1974 (PA)... Agencies should still give incoming requests the potential benefit of access under both the PA and the FOIA." DOJ Handbook for Agency FOIA Annual Reports, at 6 (Scope), which is available at <https://www.justice.gov/oip/page/file/160716/download>

Please also note that at in FY 2013, Navy BUMED and OPNAV DNS-36 were evidently receiving quarterly FOIA Reports from Walter Reed in which the quarterly numbers do not add up to the numbers in Walter Reed's FY 2013 Annual FOIA Report Submission. Walter Reed's 1st FY13 Quarterly Report was sent to 'DONFOIA-PA'; Patterson, Robin L CIV OPNAV, DNS-36 with copy to Garcia, Della W. GS BUMED; Bizzell, Judy J CIV US WRNMMC. See Enclosure (3).

To everyone referenced by name in this correspondence, if I have misspoken on this matter or any other please let me know and I will promptly correct. It is not my intention to wrongfully impugn anyone's reputation, particularly distinguished flag officers, who may not have been aware of these events. However, to the extent that Walter Reed claims that any of my unanswered FOIA/PA Requests is exclusively a PA request and the truth of these matters is not timely resolved, I may continue to submit PA complaints to achieve resolution and affix responsibility.

Thank you again.

With my deep respect,

<about:blank>

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>

To: (b) (6) @mail.mil>

Cc: (b) (6) @navy.mil>; (b) (6) @mail.mil>;

(b) (6) @mail.mil>; (b) (6) @dha.mil>; (b) (6)

(b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6)

(b) (6) @mail.mil>; (b) (6) @mail.mil>

Sent: Sun, Dec 17, 2017 7:18 am

Dear Ms. Chung,

Thank you again for all of your help and that of your staff.

Some may not be fully aware that, since 2014, I have been providing Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance documentation regarding a lack of integrity in the FOIA and Privacy Act processes and what I believe to be massive, inaccurate/false reporting to the Attorney General of the United States and Congress involving Walter Reed, Defense Health Agency and Department of Navy.

As you know, following on our correspondence over recent months (NOTAL), Department of Justice opened an inquiry last Thursday.

Jim Hogan was the perfect choice to lead DOD's coordination with DOJ. I trust Jim to get to the truth of the questions involving intent, potential early collusion and potential ongoing, wide-spread cover up.

I had hoped that, through DHA self-reporting and perhaps a DOD audit, DOD would have been able to deliver fully accurate FY 2016 Reports to DOJ and Congress. I had hoped that I would have promptly receive case tracking numbers for all of my open, aged FOIA requests, appeals and PA complaints, and that they would have been answered and properly reported by now.

I had hoped that DOD would have affixed responsibility and taken corrective action to preclude recurrence.

Yet, in my view, these very same problems continued unabated though FY 2017 and continue into FY 2018.

It is unfortunate that your staff may not be getting the full cooperation that they deserve. I hope that changes now.

Some continue to assert, without regard for the potential harmful impact to DOD as a whole and without a perspective of the broader landscape and other venues, that all of these matters can only be addressed through litigation at considerable taxpayer expense.

I disagree. These are matters of integrity and management oversight, which I believe are best addressed within the DOD. That is my preferred approach. I believe in the chain of command.

More to follow.

Thank you again,

With my deep respect,

Robert Hammond

cc: Multiple

=====

In a message dated 12/15/2017 6:45:12 AM Eastern Standard Time, (b) (6) @aol.com writes:

December 15, 2017

Dear Ms. Chung,

First, thank you for the support that Cindy Allard, Jim Hogan and the entire Office of Deputy Chief Management Officer, Directorate of Compliance staff has been providing.

Please see the attached, flawed DON JAG final appellate determination letter dated 18 Sep 2013 combining six administrative appeals.

Among other things, Mr. Lattin incorrectly states "Your appeal is a request for a final determination under the FOIA and the PA." "The requirements of each statute have to be satisfied before the respective documents may be released."

Not only is Lattin's determination contrary to law, it is contrary to DOJ FOIA Reporting and DOD policy. See DOJ Handbook for Agency FOIA Annual Reports, at 6 (Scope). See also DOD Manual 5400.07 DOD Freedom of Information Act (FOIA) Program, January 25, 2017, paragraph 3.9. RELATIONSHIP BETWEEN THE FOIA AND THE PRIVACY ACT; see also, Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records."

The entire appellate determination is flawed from top to bottom. I challenge the adequacy of Walter Reed's searches, the two fee determinations denials and Lattin's exemption (b)(6) denials/redactions related to the records of the identities of the 1 to 1 nursing sitters and the document "Critical Values Policy dtd October 2011." In short, I challenge every aspect of each of the six appeal final determinations in Lattin's letter.

Moreover, these FOIA/PA denials bring into question the accuracy of DON JAG/Walter Reed FOIA/PA reporting through your office; whether the appeals and requests were reported at all and what role DNS-36 and Lattin may have played in any premeditated Walter Reed errant/false reporting. These matters are worthy of senior leadership attention, which is why I am writing to you.

While I prefer to resolve these matters within DOD, the appeals denials and the underlying FOIA Requests are now ripe for judicial review. Will DOD be taking any action to reverse all of the appellate determinations in Lattin's 18 Sep 2013 letter and produce all responsive records?

I will greatly appreciate knowing the DOD position.

Thank you again for your continued help and support,

With my deep respect,

Robert Hammond

In a message dated 11/27/2017 11:57:01 AM Eastern Standard Time,
(b) (6) @aol.com writes:

Dear Ms. Robin Patterson (Head DON FOIA/PA Office),

Please compare page 7 of Attachment A with pages 48-67 (Walter Reed's FY 2012 Annual FOIA Report Submission to BUMED). Please also review publically available records, including BUMED and DON Annual FOIA Report Submissions.

Reporting?"

Please also refer to my email 10/6/2017 3:38:34 PM, entitled "BUMED False

Who at BUMED stated that Walter Reed had not made any Annual FOIA Reports submissions to BUMED since 2009, and why? Della Garcia? CDR (b) (6)? May I ask, if you knew that the statement was inaccurate when you made it and, if so, why did you make it? Who else knew?

As to your comment regarding raw statistical data, please compare your comment at page 6 of Attachment A with Attachment B, which is an email from Bizzell, Judy J CIV US WRNMMC to 'DONFOIA-PA'; Patterson, Robin L CIV OPNAV, DNS-36, cc: Garcia, Della W. GS BUMED, entitled "FY13 1st FOIA Quarterly Report."

Have you advised Vice Admiral Faison and Ms. Fletcher regarding your knowledge of Walter Reed's quarterly FOIA reports submissions versus the numbers in the annual reports while Walter Reed was a DON reporting entity?

Problem with the numbers not adding up?

Mr. Lattin, do you have any comments regarding the last two paragraphs at page 2?

If I have misstated anything in Attachment A or in any other correspondence, please kindly let me know soonest, so that I may correct.

Thank you.

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>
To: (b) (6) @navy.mil>
Cc: (b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6) @dha.mil>; (b) (6) @navy.mil>; (b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6) @navy.mil>

Sent: Fri, Nov 24, 2017 6:28 am

Subject: Robin Patterson, DONFOIA-PA DOD DOodge? Policy/Position, + Exemption 6. + Exemption 5 + FOIA/PA Reporting

Dear Ms. Robin Patterson (DONFOIA-PA, OPNAV DNS-36),

foia_n_4564068.html .

Please see <https://www.huffingtonpost.com/2014/01/08/us-navy-email->

Would you care to respond to the article, which states that you plot ways to dodge and strategies to thwart legitimate FOIA Requests?

Are those assertions accurate?

Why did Steve Muck apologize on behalf of Navy, instead of you?

Is this an ongoing practice?

Thank you.

Robert Hammond

(b) (6)

@aol.com writes:

In a message dated 11/22/2017 8:08:03 PM Eastern Standard Time,

Dear Ms. Allard and Ms. Fletcher,

In a matter which initially predates your current assignments, DOJ ordered DOD to submit quarterly FOIA Reports a following a 2012 GAO audit of extensive deficiencies in DOD's FOIA practices, including (among others) deficiencies in assignment of tracking numbers, errant reporting to DOJ, over-use of Exemptions (b)(5) and (b)(6) and other matters. See GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act. See <http://www.gao.gov/assets/600/593169.pdf>.

In the "Department of Defense Chief Freedom of Information Act Officer Report for 2013" at page nine, DOD states:

"The Navy underwent an in-house audit of the FOIA organization at naval activities, and a GAO audit of its overall program. These reviews enabled the Navy to establish a plan for improvement. In fiscal year 2011, the Navy reported a 70% increase in its backlog. In fiscal year 2012, the Navy successfully decreased its backlog by 28%". The Report is available at http://www.dod.mil/pubs/foi/dfoipo/docs/2013_ACFO_Report_FINAL_REPORT.pdf

DOD's statement to DOJ is false.

When I sought such records via FOIA, Robin Patterson (OPNAV-DNS-36), Head of Department of Navy (DON) FOIA/PA Program Office provided an initial determination letter, which stated that no such FOIA Improvement Plan was ever created, even though DOD had falsely reported to DOJ that it had done so.

With my deep respect, I believe that the same errant practices noted in the GAO Report are ongoing today. This poses several questions.

Why would Department of Navy make such a false statement in an official report to DOJ?

Why hasn't this been corrected?

Who is responsible for such false reporting?

To what degree is the alleged, improvement in backlogs, processing times and reduced use of exemptions (b)(5) and (b)(6) due to intentional omission of FOIA Requests and Appeals; to overriding automated systems, which generate quarterly and annual FOIA reports? Do the numbers add up?

I do not want to believe that such false reporting to DOJ is something that DON and DOD condone; tolerate. Will anyone be held accountable? What is the tipping point? When is enough, enough?

support.

With my deep respect and sincere appreciation for your continued

Robert Hammond

(b) (6)

@aol.com writes:

In a message dated 11/9/2017 9:03:54 AM Eastern Standard Time,

Dear Ms. Allard,

With my deep respect, regarding the general FOIA/PA questions below, are you able to clarify the DCPL position regarding any entity or person who may have submitted or received quarterly FOIA reports, wherein the numbers do not add up to the end of FY Annual FOIA Reports?

I have the same question regarding incomplete PA reports.

Also, I am not aware of any applicable legal protections for agency counsel/legal staff who may have personally participated in these matters and /or participated in covering them up. Are there any?

Would you consider (through your office under your delegated authority (or Mr. Tillotson/Ms. Chung directly)), directing the following entities - Walter Reed, BUMED, DON JAG, DON CIO (with respect to the Walter Reed, BUMED, and DON JAG) and DHA/TMA - to recover from archives/backup servers (as necessary) and preserve all quarterly FOIA and PA Reports submissions records from 2012 forward, together with Annual FOIA Reports submissions records, for potential audit by your office/and or an external entity, as appropriate?

This is more efficient than having to reconstruct such records from source case files, which are required to be maintained.

I am suggesting this, because any destruction of such records in anticipation of audit/other may be problematic in a variety of venues.

Also, for efficiency, would you consider directing such entities to timely identify for your office, via their leadership, any known discrepancies in reporting (which will require notes amending past reports) and any open, unreported FOIA or PA cases that will need to be added to the next reports submissions to the Attorney General and to Congress to make them current and fully accurate?

Thank you. Have a great Veterans Day holiday.

With my deep respect,
Robert Hammond.

-----Original Message-----

From: (b) (6) @aol.com>

To: (b) (6) @mail.mil>

Cc: (b) (6) @mail.mil>;

(b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6) @dha.mil>; (b) (6) @navy.mil>; (b) (6) @mail.mil>

Sent: Thu, Nov 2, 2017 8:09 pm

Subject: DOD Policy/Position, + Exemption 6. + Exemption 5 +

FOIA/PA Reporting

Dear Ms. Allard,

Thank you and your staff for your ongoing support.

With my deep respect, what is the Defense Privacy and Civil Liberties Office (DPCLO) position regarding any agency that assigns duplicate individualized FOIA tracking numbers to

completely disparate requests from different parties and then fails to report both requests in their Annual FOIA Reports through your office to the Attorney General and Congress?

Will there be any "top cover" at any level for persons who may have participated in such actions, for those who may have known, or for those who may have participated in covering up such actions?

Will there be any "buffers" at any level?

Chance to "come clean" for those on the bottom rung of the ladder, who may just be trying to do a good job, but may be impeded from doing so?

PA - same questions.

With my deep respect, I am adding key leadership of Walter Reed, DHA, BUMED and DON CIO, and seeking their support, as I believe that significant improvement in the integrity of the FOIA/PA processes and the accuracy of FOIA/PA reporting under their respective commands/reporting chains is warranted.

With my deep respect,

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>
To: (b) (6) @mail.mil>
Cc: (b) (6) @mail.mil>;

(b) (6) @mail.mil>; (b) (6) @mail.mil>; (b) (6) @dha.mil>

Sent: Sun, Oct 8, 2017 6:59 am

Subject: Re: DOD Policy, Exemption 6. Also, Exemption 5 +

FOIA/PA Reporting

Dear Ms. Allard,

With my deep respect, I am seeking a further policy determination from your office regarding DOD's interpretation of/policy for using the FOIA (b)(6) privacy exemption.

First question, once records have been released through FOIA without redaction, can that very same information later be redacted under the FOIA (b)(6) privacy exemption?

Second question, does it make a difference if that very same information was released through FOIA without redaction both before and after one's request?

Third question, does it make a difference if the redacted information is the email addresses of FOIA Officers, FOIA responders and FOIA Office personnel contained in those emails?

Forth question, does it make a difference if the redacted information is the email addresses of Privacy Officers, Privacy Act Report responders and Privacy Office personnel contained in previously released emails?

Fifth and sixth questions, again, what about multi-function printer, copier, scanner, fax machines? WRT Walter Reed?

In the absence of a policy determination, the DOD agency responses become the DOD position in any further proceedings and venues.

I am concerned that use of the FOIA (b)(6) privacy exemption in such cases may (perhaps) be being used to cover up errant/false reporting to your office for consolidation in reports to the Attorney General of the United States and Congress. I don't know the motive. However, this would be a concern in a variety of venues.

Please also reinforce that all FOIA (b)(6), (b)(5) denials, etc., must be properly reported. That has been problematic. Also, please reinforce that "refusing to respond" to a FOIA request is not an appropriate option/response and that the applicable FOIA exemption, if any, must be cited. Also, what happens if a FOIA Officer may personally know that records exist within the agency/DOD and that FOIA Officer does not search for those records? What would be the consequences in various venues, particularly wrt my concern above? What if records are then deleted? What would DOD's position be? Others?

These are broad questions, applicable across the Department.

concerns. Please advise Ms. Chung and (through her) Mr. Tillotson of my

Still a DOJ/GAO concern. Congress also. Others.
With my deep respect and appreciation,

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>
To: (b) (6) @mail.mil>
Cc: (b) (6) @mail.mil>;
(b) (6) @mail.mil>; (b) (6) @dha.mil>

Reporting

Sent: Wed, Oct 4, 2017 3:26 pm
Subject: DOD Policy, Exemption 6. Also, Exemption 5 + FOIA/PA

Dear Ms. Allard,

First, thank you for all that you and your staff are doing WRT the integrity of the FOIA/PA processes and the accuracy of reporting. I appreciate it.

With my deep respect, I am seeking a policy determination from your office regarding DOD's interpretation of/policy for using the FOIA (b)(6) privacy exemption.

May I ask:

- Do the names of Agency's have privacy rights?
- Ordinary building names?
- Military Treatment Facility names?
- FOIA Officer names?
- Multi- function printer, copier, scanner, fax machines?

This last rather odd issue came up recently WRT Walter Reed.

As you know, in a GAO audit requested by the Attorney General, DOD was singled out (along with three other federal agencies) regarding concerns over misuse of this exemption, misuse the (b)(5) exemption and errant FOIA tracking and reporting to the Attorney General. For some time, DOJ required DOD to submit quarterly FOIA Reports and ODCMO required additional data.

As you know, I am concerned that many of these same errant practices that DOD promised to fix are still ongoing and that [promised] internal controls to prevent them may be being overridden.

Still a DOJ/GAO concern.

With my deep respect,
Robert Hammond

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) @aol.com
Sent: Wednesday, December 27, 2017 18:01
To: Lattin, Grant E CIV OJAG, CODE 14; Inch, Adam E LCDR OJAG, Code 14; Yost, Adam B LCDR OJAG, Code 14; Winston, Wendy A CIV OJAG, CODE 14
Subject: [Non-DoD Source] Appeal of 15-I. Fwd: FOIA Request DON-NAVY-2018-002664 Submitted
Attachments: Appeal DON 15-I. Remand; my FOIA Request 15-I – DON FOIA Tracking Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to WRNMMC w. encl..pdf

Typo corrected.

Appeal of my FOIA Request 15-I – DON FOIA Tracking Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to Walter Reed National Military Medical Center (WRNMMC)

-----Original Message-----

From: DONFOIA-PA <DONFOIA-PA@navy.mil>
To: (b) (6) @aol.com
Sent: Wed, Dec 27, 2017 5:54 pm
Subject: FOIA Request DON-NAVY-2018-002664 Submitted

This message is to confirm your request submission to the FOIAonline application: View Request
<<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d281784084>> . Request information is as follows:

* Tracking Number: DON-NAVY-2018-002664
* Requester Name: robert hammond
* Date Submitted: 12/27/2017
* Request Status: Submitted
* Description: This is an administrative appeal, not a FOIA Request. ***This Appeal will be timely for Judicial Review in twenty working days*** Subject: Appeal of my FOIA Request 15-I – DON FOIA Tracking Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to Walter Reed National Military Medical Center (WRNMMC) Requester Personal Reference Number: FOIA DON 18-AU. BASIS FOR APPEAL I am respectfully appealing that: (1) DON JAG failed to issue a final determination letter to my administrative appeal at Enclosure (1) and failed to advise me of my right to seek judicial review. (2) DON JAG, in lieu of issuing a final determination letter, provided the DNS purported reply to the undocumented DON JAG remand directly to me as if it were the DON JAG final determination letter, which it is not. (3) DON JAG cannot remand a FOIA request absent a final determination letter. (4) DON JAG cannot remand a request and then purportedly ten days later send me the agency's reply to the remand. The Agency (DON FOIA/PAO must provide any subsequent reply to remand (assuming that there actually was one documented). (5) DON FOIA/PA, Robin Patterson, improperly states in her letter that she contacted the Walter Reed "FOIA coordinator" and "redirected" my request to Walter Reed for direct response to me. (6) There is no Walter Reed FOIA coordinator. It is either the Walter Reed FOIA Officer, Judy J. Bizzell, or the Department Chief, Joseph E Davidge. (7) There is such thing as a redirect of a FOIA Request. (8) The Agency, DON FOIA/PA, must advise me of my appeal rights, and did not do so. (9) DON FOIA/PA did not address searches for records in DON's custody and did not release any. This FOIA request was sent to DON, not Walter Reed, and it seeks, "records my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests." Walter Reed does not have cognizance over "DON automated system used for tra

*

Robert Hammond

With my respect,

Thank you very much in advance.

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

"[E]ach agency is ultimately responsible for the accuracy and completeness of its Annual FOIA Report. It is therefore essential for agencies to take steps that will ensure that they are adequately tracking all of the information necessary to complete the Annual FOIA Report sections detailed below. Agencies that utilize a tracking or case management system for this purpose are responsible for ensuring that the system they are using can produce an accurate Annual FOIA Report that is in compliance with the law and Department of Justice guidance." DOJ Handbook, at 3.

13. The DOJ Handbook also states:

12. Among other things, the DOJ Handbook states, "All requests (perfected and non-perfected), appeals, and consultations that were pending at any time during the relevant fiscal year [October 1st through September 30th] will be captured."

11. Department of Justice (DOJ) has issued a handbook addressing FOIA Annual Reports. See DOJ, Handbook for Agency Annual Freedom of Information Act Reports, "Disposition of FOIA Requests," (available at http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/departments_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf <http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/departments_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf>) ("DOJ Handbook").

10. Pursuant to FOIA, a Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in an action thereunder. 5 U.S.C. § 552(a)(4)(E).

9. Under FOIA, the federal agency has the burden of sustaining its actions. 5 U.S.C. § 552(a)(4)(B).

8. Regarding the names of the FOIA requesters, the courts have held that under the FOIA requesters do not have an expectation of privacy. *Stauss v. IRS*, 516 F. Supp. 1218, 1223 (D.D.C. 1981),

7. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

6. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(i) - (ii). See also 5 U.S.C. § 552(a)(6)(C).

5. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of "unusual circumstances" meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

4. FOIA requires that each agency shall "establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including the date on which the agency originally received the request; and an estimated date on which the agency will complete action on the request. 5 U.S.C. § 522(a)(7)(B).

3. FOIA requires that "each agency shall establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request" 5 U.S.C. § 522(a)(7)(A).

2. FOIA requires that "each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person" 5 U.S.C. § 552(a)(3)(A).

"[A]ll books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them." 44 U.S.C. § 3301 (emphasis supplied).

1. The definition of "records" includes:

LEGAL FRAMEWORK OF FOIA

Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined under this title or imprisoned not more than five years, or both.

Title 18 U.S.C. <https://en.wikipedia.org/wiki/Title_18_of_the_United_States_Code> § 1622
<<https://www.law.cornell.edu/uscode/text/18/1622>> provides:

The term subornation of perjury further describes the circumstance wherein an attorney at law
<<https://en.wikipedia.org/wiki/Lawyer>> causes a client to lie under oath or allows another party to lie under oath
Subordination of perjury

"Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends." 5 U.S.C. § 552(a)(4)(F)(i).

Pursuant to FOIA:

IMPROPERLY WITHHOLDING RECORDS

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both. 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records. (Added Pub. L. 107-204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.)

Alteration/DESTRUCTION OF Records

18 U.S. C. § 1621 - Perjury generally (June 25, 1948, ch. 645, 62 Stat. 773
<<http://uscode.house.gov/statviewer.htm?volume=62&page=773>> ; Pub. L. 88-619, §1, Oct. 3, 1964, 78 Stat. 995
<<http://uscode.house.gov/statviewer.htm?volume=78&page=995>> ; Pub. L. 94-550, §2, Oct. 18, 1976, 90 Stat. 2534
<<http://uscode.house.gov/statviewer.htm?volume=90&page=2534>> ; Pub. L. 103-322, title XXXIII, §330016(1)(I), Sept. 13, 1994, 108 Stat. 2147. <<http://uscode.house.gov/statviewer.htm?volume=108&page=2147>>

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

Whoever-

Perjury

PRESERVATION OF RECORDS AND SEARCHES PERFORMED. Please preserve all responsive or potentially responsive records and records of your searches in your FOIA case file until the statutory date for judicial review has passed (should that be necessary) or in accordance with a NARA approved records schedule, if longer. Records of responsive searches would include but not be limited to: Searches conducted for each specific record sought and all other records known to the Agency, including dates, manner of searching, responsible agent or employee conducting each search and the results thereof. Any deletion of potentially responsive records by any party having knowledge of this Request may be a violation of law. In any subsequent proceedings, I may seek sworn declarations.

PUBLIC INTEREST. The accuracy and integrity of FOIA process and FOIA reporting are in the public interest. The subject of the requested records concerns "the operations or activities of the government." The disclosure is "likely to contribute" to an understanding of government operations or activities. There is no commercial interest. There is significant public interest.

(7) I be granted new appellate rights following a subsequent reply by the Agency.

(6) records of contemporaneous searches conducted by the Agency be preserved in the FOIA case file; and,

(5) my FOIA request be remanded back to the Agency for direct reply to me, addressing all records in the Agency's custody and any searches for them;

(4) in sustaining my appeal, DON JAG not improperly cite this appeal as a "clarification" of records sought from DON;

(3) I be issued a proper final determination letter to this appeal;

(2) each element of my appeal be sustained;

(1) each element of the basis of my appeal be addressed separately;

Appellate Authority Action Sought. I am respectfully seeking that:

(10) DON FOIA/PA did not provide me any letter referring my request to Walter Reed for additional records (beyond those in DON custody and control).

(9) DON FOIA/PA did not address searches for records in DON's custody and did not release any. This FOIA request was sent to DON, not Walter Reed, and it seeks, "records my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests." Walter Reed does not have cognizance over "DON automated system used for tracking FOIA requests."

(8) The Agency, DON FOIA/PA, must advise me of my appeal rights, and did not do so.

(7) There is such thing as a redirect of a FOIA Request.

(6) There is no Walter Reed FOIA coordinator. It is either the Walter Reed FOIA Officer. Judy J. Bizzell, or the Department Chief, Joseph E Davidge.

(5) DON FOIA/PA, Robin Patterson, improperly states in her letter that she contacted the Walter Reed "FOIA coordinator" and "redirected" my request to Walter Reed for direct response to me.

(4) DON JAG cannot remand a request and then purportedly ten days later send me the agency's reply to the remand. The Agency (DON FOIA/PAO must provide any subsequent reply to remand (assuming that there actually was one documented).

(3) DON JAG cannot remand a FOIA request absent a final determination letter.

(2) DON JAG, in lieu of issuing a final determination letter, provided the DNS purported reply to the undocumented DON JAG remand directly to me as if it were the DON JAG final determination letter, which it is not.

(1) DON JAG failed to issue a final determination letter to my administrative appeal at Enclosure (1) and failed to advise me of my right to seek judicial review.

I am respectfully appealing that:

BASIS FOR APPEAL

Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

Requested Format. I am requesting that documents provided as a single PDF file by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

I am respectfully seeking records my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests. It is records from DON tracking systems that are potentially used for compiling the Annual FOIA Report submission that I am seeking. The current system is <https://foiaonline.regulations.gov/>, but the records that I am seeking may have been contained in a predecessor system, if they were not brought forward. Note that records released under the FOIA (DON-NAVY-2015-002302) demonstrate that WRNMMC FOIA requests were included in the DON Annual FOIA Report submission. Moreover, many requests were appealed to DON JAG and would have had to have been included in the DON JAG FY2013 Annual FOIA Report submission. Enclosure (1) is a listing of individual FOIA requests submitted to Walter Reed National Military Medical Center (WRNMMC). It is my understanding that DON/DON JAG maintains one or more automated system(s) database(s) for tracking FOIA requests and FOIA appeals and that each FOIA request that I submitted to WRNMMC and each FOIA request that I appealed should have been recorded in DON automated systems. It is my understanding that such automated tracking systems/database(s) are used in compiling the Annual FOIA Report submission and that subordinate activity requests, such as those that I submitted to WRNMMC would have been entered into such DON-wide tracking systems. The records that I am seeking should be readily available and easily located by FOIA personnel. This is a simple request.

RECORDS SOUGHT VIA FOIA.

Separately I have provided DOD senior leadership documentation regarding a lack of integrity in the FOIA and Privacy Act processes and what I believe to be massive, inaccurate/false reporting to the Attorney General of the United States and Congress involving Walter Reed, Defense Health Agency and Department of Navy (DON), including questions involving intent, potential early collusion and potential ongoing, wide-spread cover up.

Walter Reed has never responded. DON has never released a final determination letter addressing records in its custody regarding, "records of my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests."

As to my August 30, 2015 Appeal, DON JAG did not issue a final determination letter, but instead sent me an email on 11/3/2015 10:20:30 AM simply stating that my appeal had been remanded back to DON DNS-36 on October 26, 2015. Attached to that email was a November 2, 2015 letter from Robin Patterson stating that, "we redirected your request to WRNMMC." See Enclosure (3)

Regarding Patterson's false statement that BUMED had not received any Annual FOIA Reports from Walter Reed since FY 2009, please see Enclosure (2), which is my separate administrative appeal of my separate FOIA request seeking records of Walter Reed's FY 2012 Annual FOIA Report Submission to BUMED, which DON JAG sustained. Contrary to Patterson's false statement, Walter Reed's FY 2012 FOIA Report was indisputably submitted to BUMED. Walter Reed's FY 2012 Annual FOIA Report submission to BUMED is at pages 49 – 66. The forwarding correspondence from Walter Reed, (presumably Judy J. Bizzell) to BUMED (presumably Della Garcia) is at pages 67-68. DON's FY 2012 FOIA Report Component Listing showing that Walter Reed submitted its FY 2012 FOIA Report through BUMED is at page 33. My reply to Patterson's inaccurate August 24, 2015 letter is at pages 2-47. Bizzell's and Garcia's names and email addresses have been released in the Public Domain numerous times and should not have been redacted. Also, Patterson and Garcia were evidently receiving quarterly FOIA Reports submissions from Bizzell.

On August 30, 2015, I appealed Robin Patterson's (DNS-36) 24 Aug 15 initial determination letter. In lieu of releasing responsive records to my FOIA Request demonstrating how Walter Reed's FY 2013 FOIA requests were integrated into Department of Navy's (DON's) electronic tracking systems, Robin Patterson (DON FOIA/PA) released a copy of her own letter dated August 24, 2015 in which Patterson falsely states that BUMED had not received any Annual FOIA Reports from Walter Reed since FY 2009. My August 30, 2015 Appeal containing my July 22, 2015 Request is at Enclosure (1).

On July 22, 2015, I submitted a FOIA Request to Department of Navy (DON) seeking "records of my FY 2013 FOIA requests submitted to WRNMMC [Walter Reed National Military Medical Center] contained in any DON automated system used for tracking FOIA requests" is at Enclosure (1).

BACKGROUND.

I am submitting this Appeal under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision not to release the information and notify me of appeal procedures available under the law. References cited above apply.

While I have separately sought case records pertaining to my original FOIA Request and appeal thereof, those actions are distinct from this administrative appeal.

This is an administrative appeal, not a FOIA Request. Given that DON JAG never issued a final determination letter to my original appeal with a purported remand to DNS-36 but instead directly released a reply to that remand in FOIAonline, I am unable to directly appeal the DNS-36 flawed initial determination letter.

Dear Sir,

This Appeal will be timely for Judicial Review in twenty working days

- (j) Department of Justice Handbook for Agency Annual Freedom of Information Act Reports
- (i) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act
- (g) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
- (f) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program

(e) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) The Privacy Act ("PA") of 1974, 5 U.S.C. § 552a, et seq., as amended
(b) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
References: (a) The Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended,

(3) DON JAG email of 11/3/2015 10:20:30 AM with Patterson letter of November 2, 2015
(2) Appeal to DON JAG - WRNMMC 2012 FOIA Report Submission _ DON JAG Final Determination
Enclosure: (1): Appeal dtd August 30, 2015; subject: Records of Hammond Fiscal Year 2013 FOIA Requests to Walter Reed [and DON automated FOIA tracking]

Subject: Appeal of my FOIA Request 15-I – DON FOIA Tracking Records of Hammond Fiscal Year 2013 FOIA Requests Submitted to Walter Reed National Military Medical Center (WRNMMC)

Via; <https://foiaonline.regulations.gov>
Washington Navy Yard, DC 20374-5066
1322 Patterson Ave., SE, Suite 3000
General Litigation Division (Code 14)
Office of the Judge Advocate General

December 27, 2017

(b) (6) @aol.com

Robert Hammond

(b) (6)

Yost, Adam B LCDR OJAG, Code 14

From: (b) (6) @aol.com
Sent: Tuesday, December 26, 2017 20:41
To: (b) (6) @mail.mil; Fletcher, Kelly E SES SECNAV, DON CIO; Faison, Clinton F
RADM OPNAV; (b) (6) @mail.mil
Cc: (b) (6) @mail.mil; (b) (6) @dha.mil; (b) (6) @mail.mil;
(b) (6) @med.navy.mil; (b) (6) @mail.mil
Subject: [Non-DoD Source] DOJ Inquiry (DON FOIA Tracking) - DOD Policy/Position Exemption
6. + Exemption 5 + FOIA/PA Reporting
Attachments: FOIA DON 18-AU Case Records DON FOIA Tracking; Hammond FY 2013 FOIA Requests
to Walter Reed w. encl.pdf; Walter Reed 1st Quarter FY13 FOIA Report email to
DONFOIA-Jan242013.pdf

Dear Mr. Hogan, Vice Admiral Faison, Ms. Fletcher, Vice Admiral Bono, With my deep respect, I am providing further documentation regarding a lack of integrity in the FOIA and Privacy Act processes and what I believe to be massive, inaccurate/false reporting to the Attorney General of the United States and Congress involving Walter Reed, Defense Health Agency and Department of Navy (DON), including questions involving intent, potential early collusion and potential ongoing, wide-spread cover up.

Please see my attached FOIA Request seeking case records related to a prior July 22, 2015 FOIA Request to DON seeking, "records of my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests," and my appeal of the Robin Patterson's (DON FOIA/PA Office) initial determination letter. I submitted a similar FOIA request to DHA today.

On August 30, 2015, I appealed Robin Patterson's (DNS-36) 24 Aug 15 initial determination letter. In lieu of releasing responsive records to my FOIA Request demonstrating how Walter Reed's FY 2013 FOIA requests were integrated into Department of Navy's (DON's) electronic tracking systems, Robin Patterson (DON FOIA/PA) released a copy of her own letter dated August 24, 2015 in which Patterson falsely states that BUMED had not received any Annual FOIA Reports from Walter Reed since FY 2009. My August 30, 2015 Appeal containing my July 22, 2015 Request is at Enclosure (1). Regarding Patterson's false statement that BUMED had not received any Annual FOIA Reports from Walter Reed since FY 2009, please see Enclosure (2), which is my separate administrative appeal of my separate FOIA request seeking records of Walter Reed's FY 2012 Annual FOIA Report Submission to BUMED, which DON JAG sustained. Contrary to Patterson's false statement, Walter Reed's FY 2012 FOIA Report was indisputably submitted to BUMED. Walter Reed's FY 2012 Annual FOIA Report submission to BUMED is at pages 49 – 66. The forwarding correspondence from Walter Reed, (presumably Judy J. Bizzell) to BUMED (presumably Della Garcia) is at pages 67-68. DON's FY 2012 FOIA Report Component Listing showing that Walter Reed submitted its FY 2012 FOIA Report through BUMED is at page 33. My reply to Patterson's inaccurate August 24, 2015 letter is at pages 2-47. Bizzell's and Garcia's names and email addresses have been released in the Public Domain numerous times and should not have been redacted. Also, Patterson and Garcia were evidently receiving quarterly FOIA Reports submissions from Bizzell.

As to my August 30, 2015 Appeal, DON JAG did not issue a final determination letter, but instead sent me an email on 11/3/2015 10:20:30 AM simply stating that my Appeal had been remanded back to DON DNS-36 on October 26, 2015. Attached to that email was a November 2, 2015 letter from Robin Patterson stating that, "we redirected your request to WRNMMC." See Enclosure (3).

Walter Reed has never responded. DON has never released a final determination letter addressing records in its custody nor has DON provided any "records of my FY 2013 FOIA requests submitted to WRNMMC contained in any DON automated system used for tracking FOIA requests."

I will greatly appreciate your help in getting to the truth of these matters.

With my deep respect,

Robert Hammond